

FAMILY CODE

CHAPTER 54. JUDICIAL PROCEEDINGS

Sec. 54.01. DETENTION HEARING. (a) Except as provided by Subsection (p), if the child is not released under Section 53.02, a detention hearing without a jury shall be held promptly, but not later than the second working day after the child is taken into custody; provided, however, that when a child is detained on a Friday or Saturday, then such detention hearing shall be held on the first working day after the child is taken into custody.

(b) Reasonable notice of the detention hearing, either oral or written, shall be given, stating the time, place, and purpose of the hearing. Notice shall be given to the child and, if they can be found, to his parents, guardian, or custodian. Prior to the commencement of the hearing, the court shall inform the parties of the child's right to counsel and to appointed counsel if they are indigent and of the child's right to remain silent with respect to any allegations of delinquent conduct, conduct indicating a need for supervision, or conduct that violates an order of probation imposed by a juvenile court.

(c) At the detention hearing, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. Prior to the detention hearing, the court shall provide the attorney for the child with access to all written matter to be considered by the court in making the detention decision. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(d) A detention hearing may be held without the presence of the child's parents if the court has been unable to locate them. If no parent or guardian is present, the court shall appoint counsel or a guardian ad litem for the child.

(e) At the conclusion of the hearing, the court shall order the child released from detention unless it finds that:

(1) he is likely to abscond or be removed from the jurisdiction of the court;

(2) suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;

(3) he has no parent, guardian, custodian, or other person able to return him to the court when required;

(4) he may be dangerous to himself or may threaten the safety of the public if released; or

(5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

(f) Unless otherwise agreed in the memorandum of understanding under Section 37.011, Education Code, a release may be conditioned on requirements reasonably necessary to insure the child's appearance at later proceedings, but the conditions of the release must be in writing and a copy furnished to the child. In a county with a population greater than 125,000, if a child being released under this section is expelled under Section 37.007, Education Code, the release shall be conditioned on the child's attending a juvenile justice alternative education program pending a deferred prosecution or formal court disposition of the child's case.

(g) No statement made by the child at the detention hearing shall be admissible against the child at any other hearing.

(h) A detention order extends to the conclusion of the disposition hearing, if there is one, but in no event for more than 10 working days. Further detention orders may be made following subsequent detention hearings. The initial detention hearing may not be waived but subsequent detention hearings may be waived in accordance with the requirements of Section 51.09. Each subsequent detention order shall extend for no more than 10 working days, except that in a county that does not have a certified juvenile detention facility, as described by Section 51.12(a)(3), each subsequent detention order shall extend for no more than 15 working days.

(i) A child in custody may be detained for as long as 10 days without the hearing described in Subsection (a) of this section if:

(1) a written request for shelter in detention facilities pending arrangement of transportation to his place of residence in another state or country or another county of this state is voluntarily executed by the child not later than the next working day after he was taken into custody;

(2) the request for shelter contains:

(A) a statement by the child that he voluntarily agrees to submit himself to custody and detention for a period of not longer than 10 days without a detention hearing;

(B) an allegation by the person detaining the child that the child has left his place of residence in another state or country or another county of this state, that he is in need of shelter, and that an effort is being made to arrange transportation to his place of residence; and

(C) a statement by the person detaining the child that he has advised the child of his right to demand a detention hearing under Subsection (a) of this section; and

(3) the request is signed by the juvenile court judge to evidence his knowledge of the fact that the child is being held in detention.

(j) The request for shelter may be revoked by the child at any time, and on such revocation, if further detention is necessary, a detention hearing shall be held not later than the next working day in accordance with Subsections (a) through (g) of this section.

(k) Notwithstanding anything in this title to the contrary, the child may sign a request for shelter without the concurrence of an adult specified in Section 51.09 of this code.

(l) The juvenile board may appoint a referee to conduct the detention hearing. The referee shall be an attorney licensed to practice law in this state. Such payment or additional payment as may be warranted for referee services shall be provided from county funds. Before commencing the detention hearing, the referee shall inform the parties who have appeared that they are entitled to have the hearing before the juvenile court judge or a substitute judge authorized by Section 51.04(f). If a party objects to the referee conducting the detention hearing, an authorized judge shall conduct the hearing within 24 hours. At the conclusion of the hearing, the referee shall transmit written findings and recommendations to the juvenile court judge or substitute judge. The juvenile court judge or substitute judge shall adopt, modify, or reject the referee's recommendations not later than the next working day after the day that the judge receives the recommendations. Failure to act within that time results in release of the child by operation of law. A recommendation that the child be released operates to secure the child's immediate release, subject to the power of the juvenile court judge or substitute judge to reject or modify that recommendation. The effect of an order detaining a child shall be computed from the time of the hearing before the referee.

(m) The detention hearing required in this section may be held in the county of the designated place of detention where the child is being held even though the designated place of detention is outside the county of residence of the child or the county in which the alleged delinquent conduct, conduct indicating a need for supervision, or probation violation occurred.

(n) An attorney appointed by the court under Section 51.10(c) because a determination was made under this section to detain a child who was not represented by an attorney may request on behalf of the child and is entitled to a de novo detention hearing under this section. The attorney must make the request not later than the 10th working day after the date the attorney is appointed. The hearing must take place not later than the second working day after the date the attorney filed a formal request with the court for a hearing.

(o) The court or referee shall find whether there is probable cause to believe that a child taken into custody without an arrest warrant or a directive to apprehend has engaged in delinquent conduct, conduct indicating a need for supervision, or conduct that violates an order of probation imposed by a juvenile court. The court or referee must make the finding within 48 hours, including weekends and holidays, of the time the child was taken into custody. The court or referee may make the finding on any reasonably reliable information without regard to admissibility of that information under the Texas Rules of Evidence. A finding of probable cause is required to detain a child after the 48th hour

after the time the child was taken into custody. If a court or referee finds probable cause, additional findings of probable cause are not required in the same cause to authorize further detention.

(p) If a child is detained in a county jail or other facility as provided by Section 51.12(1) and the child is not released under Section 53.02(f), a detention hearing without a jury shall be held promptly, but not later than the 24th hour, excluding weekends and holidays, after the time the child is taken into custody.

(q) If a child has not been released under Section 53.02 or this section and a petition has not been filed under Section 53.04 or 54.05 concerning the child, the court shall order the child released from detention not later than:

(1) the 30th working day after the date the initial detention hearing is held, if the child is alleged to have engaged in conduct constituting a capital felony, an aggravated controlled substance felony, or a felony of the first degree; or

(2) the 15th working day after the date the initial detention hearing is held, if the child is alleged to have engaged in conduct constituting an offense other than an offense listed in Subdivision (1) or conduct that violates an order of probation imposed by a juvenile court.

(q-1) The juvenile board may impose an earlier deadline than the specified deadlines for filing petitions under Subsection (q) and may specify the consequences of not filing a petition by the deadline the juvenile board has established. The juvenile board may authorize but not require the juvenile court to release a respondent from detention for failure of the prosecutor to file a petition by the juvenile board's deadline.

(r) On the conditional release of a child from detention by judicial order under Subsection (f), the court, referee, or detention magistrate may order that the child's parent, guardian, or custodian present in court at the detention hearing engage in acts or omissions specified by the court, referee, or detention magistrate that will assist the child in complying with the conditions of release. The order must be in writing and a copy furnished to the parent, guardian, or custodian. An order entered under this subsection may be enforced as provided by Chapter 61.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, Sec. 14, 15, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1102, ch. 518, Sec. 2, eff. June 11, 1979; Acts 1995, 74th Leg., ch. 262, Sec. 31, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 922, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1015, Sec. 18, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1086, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 232, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1477, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 20, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(30), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 14, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 949, Sec. 12, eff. Sept. 1, 2005.

Sec. 54.011. DETENTION HEARINGS FOR STATUS OFFENDERS AND NONOFFENDERS; PENALTY. (a) The detention hearing for a status offender or nonoffender who has not been released administratively under Section 53.02 shall be held before the 24th hour after the time the child arrived at a detention facility, excluding hours of a weekend or a holiday. Except as otherwise provided by this section, the judge or referee conducting the detention hearing shall release the status offender or nonoffender from secure detention.

(b) The judge or referee may order a child in detention accused of the violation of a valid court order as defined by Section 51.02 detained not longer than 72 hours after the time the detention order was entered, excluding weekends and holidays, if:

(1) the judge or referee finds at the detention hearing that there is probable cause to believe the child violated the valid court order; and

(2) the detention of the child is justified under Section 54.01(e)(1), (2), or (3).

(c) Except as provided by Subsection (d), a detention order entered under Subsection (b) may be extended for one additional 72-hour period, excluding weekends and holidays, only on a finding of good cause by the juvenile court.

(d) A detention order for a child under this section may be extended on the demand of the child's attorney only to allow the time that is necessary to comply with the requirements of Section 51.10(h), entitling the attorney to 10 days to prepare for an

adjudication hearing.

(e) A status offender may be detained for a necessary period, not to exceed five days, to enable the child's return to the child's home in another state under Chapter 60.

(f) Except as provided by Subsection (a), a nonoffender, including a person who has been taken into custody and is being held solely for deportation out of the United States, may not be detained for any period of time in a secure detention facility or secure correctional facility, regardless of whether the facility is publicly or privately operated. A nonoffender who is detained in violation of this subsection is entitled to immediate release from the facility and may bring a civil action for compensation for the illegal detention against any person responsible for the detention. A person commits an offense if the person knowingly detains or assists in detaining a nonoffender in a secure detention facility or secure correctional facility in violation of this subsection. An offense under this subsection is a Class B misdemeanor. Added by Acts 1995, 74th Leg., ch. 262, Sec. 32, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1374, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 283, Sec. 15, 16, eff. Sept. 1, 2003.

Sec. 54.012. INTERACTIVE VIDEO RECORDING OF DETENTION HEARING. (a) A detention hearing under Section 54.01 may be held using interactive video equipment if:

(1) the child and the child's attorney agree to the video hearing; and

(2) the parties to the proceeding have the opportunity to cross-examine witnesses.

(b) A detention hearing may not be held using video equipment unless the video equipment for the hearing provides for a two-way communication of image and sound among the child, the court, and other parties at the hearing.

(c) A recording of the communications shall be made. The recording shall be preserved until the earlier of:

(1) the 91st day after the date on which the recording is made if the child is alleged to have engaged in conduct constituting a misdemeanor;

(2) the 120th day after the date on which the recording is made if the child is alleged to have engaged in conduct constituting a felony; or

(3) the date on which the adjudication hearing ends.

(d) An attorney for the child may obtain a copy of the recording on payment of the reasonable costs of reproducing the copy.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 33, eff. Jan. 1, 1996. Amended by Acts 2005, 79th Leg., ch. 949, Sec. 13, eff. Sept. 1, 2005.

Sec. 54.02. WAIVER OF JURISDICTION AND DISCRETIONARY TRANSFER TO CRIMINAL COURT. (a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal district court for criminal proceedings if:

(1) the child is alleged to have violated a penal law of the grade of felony;

(2) the child was:

(A) 14 years of age or older at the time he is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; or

(B) 15 years of age or older at the time the child is alleged to have committed the offense, if the offense is a felony of the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and

(3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

(b) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering discretionary transfer to criminal court.

(c) The juvenile court shall conduct a hearing without a jury to consider transfer of the child for criminal proceedings.

(d) Prior to the hearing, the juvenile court shall order and obtain a complete diagnostic study, social evaluation, and full investigation of the child, his circumstances, and the circumstances of the alleged offense.

(e) At the transfer hearing the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. At least one day prior to the transfer hearing, the court shall provide the attorney for the child with access to all written matter to be considered by the court in making the transfer decision. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(f) In making the determination required by Subsection (a) of this section, the court shall consider, among other matters:

(1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;

(2) the sophistication and maturity of the child;

(3) the record and previous history of the child; and

(4) the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

(g) If the petition alleges multiple offenses that constitute more than one criminal transaction, the juvenile court shall either retain or transfer all offenses relating to a single transaction. A child is not subject to criminal prosecution at any time for any offense arising out of a criminal transaction for which the juvenile court retains jurisdiction.

(h) If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court, and shall transfer the person to the appropriate court for criminal proceedings and cause the results of the diagnostic study of the person ordered under Subsection (d), including psychological information, to be transferred to the appropriate criminal prosecutor. On transfer of the person for criminal proceedings, the person shall be dealt with as an adult and in accordance with the Code of Criminal Procedure. The transfer of custody is an arrest.

(i) A waiver under this section is a waiver of jurisdiction over the child and the criminal court may not remand the child to the jurisdiction of the juvenile court.

(j) The juvenile court may waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings if:

(1) the person is 18 years of age or older;

(2) the person was:

(A) 10 years of age or older and under 17 years of age at the time the person is alleged to have committed a capital felony or an offense under Section 19.02, Penal Code;

(B) 14 years of age or older and under 17 years of age at the time the person is alleged to have committed an aggravated controlled substance felony or a felony of the first degree other than an offense under Section 19.02, Penal Code; or

(C) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony of the second or third degree or a state jail felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4) the juvenile court finds from a preponderance of the evidence that:

(A) for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B) after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i) the state did not have probable cause to

proceed in juvenile court and new evidence has been found since the 18th birthday of the person;

(ii) the person could not be found; or
(iii) a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5) the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged.

(k) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under Subsection (j) of this section.

(1) The juvenile court shall conduct a hearing without a jury to consider waiver of jurisdiction under Subsection (j) of this section.

(m) Notwithstanding any other provision of this section, the juvenile court shall waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal court for criminal proceedings if:

(1) the child has previously been transferred to a district court or criminal district court for criminal proceedings under this section, unless:

(A) the child was not indicted in the matter transferred by the grand jury;

(B) the child was found not guilty in the matter transferred;

(C) the matter transferred was dismissed with prejudice; or

(D) the child was convicted in the matter transferred, the conviction was reversed on appeal, and the appeal is final; and

(2) the child is alleged to have violated a penal law of the grade of felony.

(n) A mandatory transfer under Subsection (m) may be made without conducting the study required in discretionary transfer proceedings by Subsection (d). The requirements of Subsection (b) that the summons state that the purpose of the hearing is to consider discretionary transfer to criminal court does not apply to a transfer proceeding under Subsection (m). In a proceeding under Subsection (m), it is sufficient that the summons provide fair notice that the purpose of the hearing is to consider mandatory transfer to criminal court.

(o) If a respondent is taken into custody for possible discretionary transfer proceedings under Subsection (j), the juvenile court shall hold a detention hearing in the same manner as provided by Section 54.01, except that the court shall order the respondent released unless it finds that the respondent:

(1) is likely to abscond or be removed from the jurisdiction of the court;

(2) may be dangerous to himself or herself or may threaten the safety of the public if released; or

(3) has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term of jail or prison and is likely to commit an offense if released.

(p) If the juvenile court does not order a respondent released under Subsection (o), the court shall, pending the conclusion of the discretionary transfer hearing, order that the respondent be detained in:

(1) a certified juvenile detention facility as provided by Subsection (q); or

(2) an appropriate county facility for the detention of adults accused of criminal offenses.

(q) The detention of a respondent in a certified juvenile detention facility must comply with the detention requirements under this title, except that, to the extent practicable, the person shall be kept separate from children detained in the same facility.

(r) If the juvenile court orders a respondent detained in a county facility under Subsection (p), the county sheriff shall take custody of the respondent under the juvenile court's order. The juvenile court shall set or deny bond for the respondent as required by the Code of Criminal Procedure and other law applicable to the

pretrial detention of adults accused of criminal offenses. Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, Sec. 16, eff. Sept. 1, 1975; Acts 1987, 70th Leg., ch. 140, Sec. 1 to 3, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 262, Sec. 34, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1477, Sec. 8, eff. Sept. 1, 1999.

Sec. 54.021. COUNTY, JUSTICE, OR MUNICIPAL COURT: TRUANCY. (a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of two million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is alleged to have engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

(b) A county, justice, or municipal court may exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where:

(1) the juvenile court has waived its original jurisdiction under this section; and

(2) a complaint is filed by the appropriate authority in the county, justice, or municipal court charging an offense under Section 25.094, Education Code.

(c) A proceeding in a county, justice, or municipal court on a complaint charging an offense under Section 25.094, Education Code, is governed by Chapter 45, Code of Criminal Procedure.

(d) Notwithstanding any other law, the costs assessed in a case filed in or transferred to a constitutional county court for an offense under Section 25.093 or 25.094, Education Code, must be the same as the costs assessed for a case filed in a justice court for an offense under Section 25.093 or 25.094, Education Code.

(e) The proceedings before a constitutional county court related to an offense under Section 25.093 or 25.094, Education Code, may be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

Added by Acts 1991, 72nd Leg., ch. 741, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 358, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 260, Sec. 24, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 35, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 76, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1514, Sec. 14, 19(b), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 137, Sec. 12, eff. Sept. 1, 2003.

Sec. 54.03. ADJUDICATION HEARING. (a) A child may be found to have engaged in delinquent conduct or conduct indicating a need for supervision only after an adjudication hearing conducted in accordance with the provisions of this section.

(b) At the beginning of the adjudication hearing, the juvenile court judge shall explain to the child and his parent, guardian, or guardian ad litem:

(1) the allegations made against the child;

(2) the nature and possible consequences of the proceedings, including the law relating to the admissibility of the record of a juvenile court adjudication in a criminal proceeding;

(3) the child's privilege against self-incrimination;

(4) the child's right to trial and to confrontation of witnesses;

(5) the child's right to representation by an attorney if he is not already represented; and

(6) the child's right to trial by jury.

(c) Trial shall be by jury unless jury is waived in accordance with Section 51.09. If the hearing is on a petition that has been approved by the grand jury under Section 53.045, the jury must consist of 12 persons and be selected in accordance with the requirements in criminal cases. Jury verdicts under this title must be unanimous.

(d) Except as provided by Section 54.031, only material, relevant, and competent evidence in accordance with the Texas Rules

of Evidence applicable to criminal cases and Chapter 38, Code of Criminal Procedure, may be considered in the adjudication hearing. Except in a detention or discretionary transfer hearing, a social history report or social service file shall not be viewed by the court before the adjudication decision and shall not be viewed by the jury at any time.

(e) A child alleged to have engaged in delinquent conduct or conduct indicating a need for supervision need not be a witness against nor otherwise incriminate himself. An extrajudicial statement which was obtained without fulfilling the requirements of this title or of the constitution of this state or the United States, may not be used in an adjudication hearing. A statement made by the child out of court is insufficient to support a finding of delinquent conduct or conduct indicating a need for supervision unless it is corroborated in whole or in part by other evidence. An adjudication of delinquent conduct or conduct indicating a need for supervision cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the child with the alleged delinquent conduct or conduct indicating a need for supervision; and the corroboration is not sufficient if it merely shows the commission of the alleged conduct. Evidence illegally seized or obtained is inadmissible in an adjudication hearing.

(f) At the conclusion of the adjudication hearing, the court or jury shall find whether or not the child has engaged in delinquent conduct or conduct indicating a need for supervision. The finding must be based on competent evidence admitted at the hearing. The child shall be presumed to be innocent of the charges against the child and no finding that a child has engaged in delinquent conduct or conduct indicating a need for supervision may be returned unless the state has proved such beyond a reasonable doubt. In all jury cases the jury will be instructed that the burden is on the state to prove that a child has engaged in delinquent conduct or is in need of supervision beyond a reasonable doubt. A child may be adjudicated as having engaged in conduct constituting a lesser included offense as provided by Articles 37.08 and 37.09, Code of Criminal Procedure.

(g) If the court or jury finds that the child did not engage in delinquent conduct or conduct indicating a need for supervision, the court shall dismiss the case with prejudice.

(h) If the finding is that the child did engage in delinquent conduct or conduct indicating a need for supervision, the court or jury shall state which of the allegations in the petition were found to be established by the evidence. The court shall also set a date and time for the disposition hearing.

(i) In order to preserve for appellate or collateral review the failure of the court to provide the child the explanation required by Subsection (b), the attorney for the child must comply with Rule 33.1, Texas Rules of Appellate Procedure, before testimony begins or, if the adjudication is uncontested, before the child pleads to the petition or agrees to a stipulation of evidence.

(j) When the state and the child agree to the disposition of the case, in whole or in part, the prosecuting attorney shall inform the court of the agreement between the state and the child. The court shall inform the child that the court is not required to accept the agreement. The court may delay a decision on whether to accept the agreement until after reviewing a report filed under Section 54.04(b). If the court decides not to accept the agreement, the court shall inform the child of the court's decision and give the child an opportunity to withdraw the plea or stipulation of evidence. If the court rejects the agreement, no document, testimony, or other evidence placed before the court that relates to the rejected agreement may be considered by the court in a subsequent hearing in the case. A statement made by the child before the court's rejection of the agreement to a person writing a report to be filed under Section 54.04(b) may not be admitted into evidence in a subsequent hearing in the case. If the court accepts the agreement, the court shall make a disposition in accordance with the terms of the agreement between the state and the child.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1975, 64th Leg., p. 2157, ch. 693, Sec. 17, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1098, ch. 514, Sec. 1, eff. Aug. 27, 1979; Acts 1985, 69th Leg., ch. 590, Sec. 2, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 385, Sec. 8, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 386, Sec. 3, eff. Sept. 1, 1987; Acts

1995, 74th Leg., ch. 262, Sec. 37, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1086, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 9, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 22, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 17, eff. Sept. 1, 2003.

Sec. 54.031. HEARSAY STATEMENT OF CHILD ABUSE VICTIM. (a) This section applies to a hearing under this title in which a child is alleged to be a delinquent child on the basis of a violation of any of the following provisions of the Penal Code, if a child 12 years of age or younger is the alleged victim of the violation:

- (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); or
- (3) Section 43.25 (Sexual Performance by a Child).

(b) This section applies only to statements that describe the alleged violation that:

(1) were made by the child who is the alleged victim of the violation; and

(2) were made to the first person, 18 years of age or older, to whom the child made a statement about the violation.

(c) A statement that meets the requirements of Subsection (b) of this section is not inadmissible because of the hearsay rule if:

(1) on or before the 14th day before the date the hearing begins, the party intending to offer the statement:

(A) notifies each other party of its intention to do so;

(B) provides each other party with the name of the witness through whom it intends to offer the statement; and

(C) provides each other party with a written summary of the statement;

(2) the juvenile court finds, in a hearing conducted outside the presence of the jury, that the statement is reliable based on the time, content, and circumstances of the statement; and

(3) the child who is the alleged victim testifies or is available to testify at the hearing in court or in any other manner provided by law.

Added by Acts 1985, 69th Leg., ch. 590, Sec. 3, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.31, eff. Sept. 1, 1995.

Sec. 54.032. DEFERRAL OF ADJUDICATION AND DISMISSAL OF CERTAIN CASES ON COMPLETION OF TEEN COURT PROGRAM. (a) A juvenile court may defer adjudication proceedings under Section 54.03 for not more than 180 days if the child:

(1) is alleged to have engaged in conduct indicating a need for supervision that violated a penal law of this state of the grade of misdemeanor that is punishable by fine only or a penal ordinance of a political subdivision of this state;

(2) waives, under Section 51.09, the privilege against self-incrimination and testifies under oath that the allegations are true;

(3) presents to the court an oral or written request to attend a teen court program; and

(4) has not successfully completed a teen court program in the two years preceding the date that the alleged conduct occurred.

(b) The teen court program must be approved by the court.

(c) A child for whom adjudication proceedings are deferred under Subsection (a) shall complete the teen court program not later than the 90th day after the date the teen court hearing to determine punishment is held or the last day of the deferral period, whichever date is earlier. The court shall dismiss the case with prejudice at the time the child presents satisfactory evidence that the child has successfully completed the teen court program.

(d) A case dismissed under this section may not be part of the child's records for any purpose.

(e) The court may require a child who requests a teen court program to pay a fee not to exceed \$10 that is set by the court to cover the costs of administering this section. The court shall deposit the fee in the county treasury of the county in which the court is located. A child who requests a teen court program and does not complete the program is not entitled to a refund of the fee.

(f) A court may transfer a case in which proceedings have been deferred as provided by this section to a court in another

county if the court to which the case is transferred consents. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(g) In addition to the fee authorized by Subsection (e), the court may require a child who requests a teen court program to pay a \$10 fee to cover the cost to the teen court for performing its duties under this section. The court shall pay the fee to the teen court program, and the teen court program must account to the court for the receipt and disbursement of the fee. A child who pays a fee under this subsection is not entitled to a refund of the fee, regardless of whether the child successfully completes the teen court program.

Added by Acts 1989, 71st Leg., ch. 1031, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 748, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 216, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 18, eff. Sept. 1, 2003.

Sec. 54.033. SEXUALLY TRANSMITTED DISEASE, AIDS, AND HIV TESTING. (a) A child found at the conclusion of an adjudication hearing under Section 54.03 of this code to have engaged in delinquent conduct that included a violation of Sections 21.11(a)(1), 22.011, or 22.021, Penal Code, shall undergo a medical procedure or test at the direction of the juvenile court designed to show or help show whether the child has a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court may direct the child to undergo the procedure or test on the court's own motion or on the request of the victim of the delinquent conduct.

(b) If the child or another person who has the power to consent to medical treatment for the child refuses to submit voluntarily or consent to the procedure or test, the court shall require the child to submit to the procedure or test.

(c) The person performing the procedure or test shall make the test results available to the local health authority. The local health authority shall be required to notify the victim of the delinquent conduct and the person found to have engaged in the delinquent conduct of the test result.

(d) The state may not use the fact that a medical procedure or test was performed on a child under this section or use the results of the procedure or test in any proceeding arising out of the delinquent conduct.

(e) Testing under this section shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the child and the victim of the delinquent conduct.

(f) Nothing in this section allows a court to release a test result to anyone other than a person specifically authorized under this section. Section 81.103(d), Health and Safety Code, may not be construed to allow the disclosure of test results under this section except as provided by this section.

Added by Acts 1993, 73rd Leg., ch. 811, Sec. 2, eff. Sept. 1, 1993.

Sec. 54.034. LIMITED RIGHT TO APPEAL: WARNING. Before the court may accept a child's plea or stipulation of evidence in a proceeding held under this title, the court shall inform the child that if the court accepts the plea or stipulation and the court makes a disposition in accordance with the agreement between the state and the child regarding the disposition of the case, the child may not appeal an order of the court entered under Section 54.03, 54.04, or 54.05, unless:

(1) the court gives the child permission to appeal; or
(2) the appeal is based on a matter raised by written motion filed before the proceeding in which the child entered the plea or agreed to the stipulation of evidence.

Added by Acts 1999, 76th Leg., ch. 74, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.04. DISPOSITION HEARING. (a) The disposition hearing shall be separate, distinct, and subsequent to the adjudication hearing. There is no right to a jury at the disposition hearing unless the child is in jeopardy of a determinate sentence under Subsection (d)(3) or (m), in which case, the child is entitled to a jury of 12 persons to determine the sentence.

(b) At the disposition hearing, the juvenile court may

consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. Prior to the disposition hearing, the court shall provide the attorney for the child with access to all written matter to be considered in disposition. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(c) No disposition may be made under this section unless the child is in need of rehabilitation or the protection of the public or the child requires that disposition be made. If the court or jury does not so find, the court shall dismiss the child and enter a final judgment without any disposition. No disposition placing the child on probation outside the child's home may be made under this section unless the court or jury finds that 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 the probation.

(d) If the court or jury makes the finding specified in Subsection (c) allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042, place the child on probation on such reasonable and lawful terms as the court may determine:

(A) in the child's own home or in the custody of a relative or other fit person; or

(B) subject to the finding under Subsection (c) on the placement of the child outside the child's home, in:

(i) a suitable foster home; or
(ii) a suitable public or private institution or agency, except the Texas Youth Commission;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (s) or (t) are met, of the grade of misdemeanor, and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Youth Commission without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a term of:

(A) not more than 40 years if the conduct constitutes:

(i) a capital felony;
(ii) a felony of the first degree; or
(iii) an aggravated controlled substance felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or

(5) if applicable, the court or jury may make a disposition under Subsection (m).

(e) The Texas Youth Commission shall accept a person properly committed to it by a juvenile court even though the person may be 17 years of age or older at the time of commitment.

(f) The court shall state specifically in the order its reasons for the disposition and shall furnish a copy of the order to the child. If the child is placed on probation, the terms of probation shall be written in the order.

(g) If the court orders a disposition under Subsection (d)(3) or (m) and there is an affirmative finding that the defendant used or exhibited a deadly weapon during the commission of the conduct or during immediate flight from commission of the conduct,

the court shall enter the finding in the order. If there is an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in the order.

(h) At the conclusion of the dispositional hearing, the court shall inform the child of:

(1) the child's right to appeal, as required by Section 56.01; and

(2) the procedures for the sealing of the child's records under Section 58.003.

(i) If the court places the child on probation outside the child's home or commits the child to the Texas Youth Commission, the court:

(1) shall include in its order its determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the home and to make it possible for the child to return to the child's home; and

(C) 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; and

(2) may approve an administrative body to conduct permanency hearings pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

(j) If the court or jury found that the child engaged in delinquent conduct that included a violation of a penal law of the grade of felony or jailable misdemeanor, the court:

(1) shall require that the child's thumbprint be affixed to the order; and

(2) may require that a photograph of the child be attached to the order.

(k) Except as provided by Subsection (m), the period to which a court or jury may sentence a person to commitment to the Texas Youth Commission with a transfer to the Texas Department of Criminal Justice under Subsection (d)(3) applies without regard to whether the person has previously been adjudicated as having engaged in delinquent conduct.

(l) Except as provided by Subsection (q), a court or jury may place a child on probation under Subsection (d)(1) for any period, except that probation may not continue on or after the child's 18th birthday. Except as provided by Subsection (q), the court may, before the period of probation ends, extend the probation for any period, except that the probation may not extend to or after the child's 18th birthday.

(m) The court or jury may sentence a child adjudicated for habitual felony conduct as described by Section 51.031 to a term prescribed by Subsection (d)(3) and applicable to the conduct adjudicated in the pending case if:

(1) a petition was filed and approved by a grand jury under Section 53.045 alleging that the child engaged in habitual felony conduct; and

(2) the court or jury finds beyond a reasonable doubt that the allegation described by Subdivision (1) in the grand jury petition is true.

(n) A court may order a disposition of secure confinement of a status offender adjudicated for violating a valid court order only if:

(1) before the order is issued, the child received the full due process rights guaranteed by the Constitution of the United States or the Texas Constitution; and

(2) the juvenile probation department in a report authorized by Subsection (b):

(A) reviewed the behavior of the child and the circumstances under which the child was brought before the court;

(B) determined the reasons for the behavior that caused the child to be brought before the court; and

(C) determined that all dispositions, including treatment, other than placement in a secure detention facility or secure correctional facility, have been exhausted or are clearly inappropriate.

(o) In a disposition under this title:

(1) a status offender may not, under any circumstances, be committed to the Texas Youth Commission for engaging in conduct that would not, under state or local law, be a crime if committed by an adult;

(2) a status offender may not, under any circumstances other than as provided under Subsection (n), be placed in a post-adjudication secure correctional facility; and

(3) a child adjudicated for contempt of a county, justice, or municipal court order may not, under any circumstances, be placed in a post-adjudication secure correctional facility or committed to the Texas Youth Commission for that conduct.

(p) Except as provided by Subsection (l), a court that places a child on probation under Subsection (d)(1) for conduct described by Section 54.0405(b) and punishable as a felony shall specify a minimum probation period of two years.

(q) If a court or jury sentences a child to commitment in the Texas Youth Commission under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 18th birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 18th birthday, the court shall discharge the child from the sentence of probation on the child's 18th birthday unless the court transfers the child to an appropriate district court under Section 54.051.

(r) If the judge orders a disposition under this section and there is an affirmative finding that the victim or intended victim was younger than 17 years of age at the time of the conduct, the judge shall enter the finding in the order.

(s) The court may make a disposition under Subsection (d)(2) for delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of misdemeanor on at least two previous occasions;

(2) of the previous adjudications, the conduct that was the basis for one of the adjudications occurred after the date of another previous adjudication; and

(3) the conduct that is the basis of the current adjudication occurred after the date of at least two previous adjudications.

(t) The court may make a disposition under Subsection (d)(2) for delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony on at least one previous occasion; and

(2) the conduct that is the basis of the current adjudication occurred after the date of that previous adjudication.

(u) For the purposes of disposition under Subsection (d)(2), delinquent conduct that violates a penal law of this state of the grade of felony or misdemeanor does not include conduct that violates a lawful order of a county, municipal, justice, or juvenile court under circumstances that would constitute contempt of that court.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1975, 64th Leg., p. 2158, ch. 693, Sec. 23, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 1802, ch. 394, Sec. 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 161, ch. 44, art. 1, Sec. 3, eff. April 26, 1983; Acts 1983, 68th Leg., p. 3261, ch. 565, Sec. 2, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 385, Sec. 9, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1052, Sec. 6.11, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 16.01(17), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 80, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 557, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 574, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 784, Sec. 8, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1048, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 262, Sec. 38, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 669, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1086, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1193, Sec. 9, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1415, Sec. 19, eff.

Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1448, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1477, Sec. 10, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 23, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 5.001, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 137, Sec. 13, eff. Sept. 1, 2003.

Sec. 54.0405. CHILD PLACED ON PROBATION FOR CONDUCT CONSTITUTING SEXUAL OFFENSE. (a) If a court or jury makes a disposition under Section 54.04 in which a child described by Subsection (b) is placed on probation, the court:

(1) may require as a condition of probation that the child:

(A) attend psychological counseling sessions for sex offenders as provided by Subsection (e); and

(B) submit to a polygraph examination as provided by Subsection (f) for purposes of evaluating the child's treatment progress; and

(2) shall require as a condition of probation that the child:

(A) register under Chapter 62, Code of Criminal Procedure; and

(B) submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the child, unless the child has already submitted the required specimen under other state law.

(b) This section applies to a child placed on probation for conduct constituting an offense for which the child is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(c) Psychological counseling required as a condition of probation under Subsection (a) must be with an individual or organization that:

(1) provides sex offender treatment or counseling;

(2) is specified by the local juvenile probation department supervising the child; and

(3) meets minimum standards of counseling established by the local juvenile probation department.

(d) A polygraph examination required as a condition of probation under Subsection (a) must be administered by an individual who is:

(1) specified by the local juvenile probation department supervising the child; and

(2) licensed as a polygraph examiner under Chapter 1703, Occupations Code.

(e) A local juvenile probation department that specifies a sex offender treatment provider under Subsection (c) to provide counseling to a child shall:

(1) establish with the cooperation of the treatment provider the date, time, and place of the first counseling session between the child and the treatment provider;

(2) notify the child and the treatment provider, not later than the 21st day after the date the order making the disposition placing the child on probation under Section 54.04 becomes final, of the date, time, and place of the first counseling session between the child and the treatment provider; and

(3) require the treatment provider to notify the department immediately if the child fails to attend any scheduled counseling session.

(f) A local juvenile probation department that specifies a polygraph examiner under Subsection (d) to administer a polygraph examination to a child shall arrange for a polygraph examination to be administered to the child:

(1) not later than the 60th day after the date the child attends the first counseling session established under Subsection (e); and

(2) after the initial polygraph examination, as required by Subdivision (1), on the request of the treatment provider specified under Subsection (c).

(g) A court that requires as a condition of probation that a child attend psychological counseling under Subsection (a) may order the parent or guardian of the child to:

(1) attend four sessions of instruction with an individual or organization specified by the court relating to:

(A) sexual offenses;

(B) family communication skills;

- (C) sex offender treatment;
- (D) victims' rights;
- (E) parental supervision; and
- (F) appropriate sexual behavior; and

(2) during the period the child attends psychological counseling, participate in monthly treatment groups conducted by the child's treatment provider relating to the child's psychological counseling.

(h) A court that orders a parent or guardian of a child to attend instructional sessions and participate in treatment groups under Subsection (g) shall require:

(1) the individual or organization specified by the court under Subsection (g) to notify the court immediately if the parent or guardian fails to attend any scheduled instructional session; and

(2) the child's treatment provider specified under Subsection (c) to notify the court immediately if the parent or guardian fails to attend a session in which the parent or guardian is required to participate in a scheduled treatment group.

(i) A court that requires as a condition of probation that a child attend psychological counseling under Subsection (a) may, before the date the probation period ends, extend the probation for any additional period necessary to complete the required counseling as determined by the treatment provider, except that the probation may not be extended to a date after the date of the child's 18th birthday.

Added by Acts 1997, 75th Leg., ch. 669, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 211, Sec. 13, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.743, eff. Sept. 1, 2001.

Sec. 54.0406. CHILD PLACED ON PROBATION FOR CONDUCT INVOLVING A HANDGUN. (a) If a court or jury places a child on probation under Section 54.04(d) for conduct that violates a penal law that includes as an element of the offense the possession, carrying, using, or exhibiting of a handgun, as defined by Section 46.01, Penal Code, and if at the adjudication hearing the court or jury affirmatively finds that the child personally possessed, carried, used, or exhibited the handgun, the court shall require as a condition of probation that the child, not later than the 30th day after the date the court places the child on probation, notify the juvenile probation officer who is supervising the child of the manner in which the child acquired the handgun, including the date and place of and any person involved in the acquisition.

(b) On receipt of information described by Subsection (a), a juvenile probation officer shall promptly notify the appropriate local law enforcement agency of the information.

(c) Information provided by a child to a juvenile probation officer as required by Subsection (a) and any other information derived from that information may not be used as evidence against the child in any juvenile or criminal proceeding.

Added by Acts 1999, 76th Leg., ch. 1446, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

Added by Acts 2001, 77th Leg., ch. 450, Sec. 2, eff. Sept. 1, 2001.

Sec. 54.0408. REFERRAL OF CHILD EXITING PROBATION TO MENTAL HEALTH OR MENTAL RETARDATION AUTHORITY. A juvenile probation officer shall refer a child who has been determined to have a mental illness or mental retardation to an appropriate local mental health or mental retardation authority at least three months before the child is to complete the child's juvenile probation term unless the child is currently receiving treatment from the local mental health or mental retardation authority of the county in which the child resides.

Added by Acts 2005, 79th Leg., ch. 949, Sec. 14, eff. Sept. 1, 2005.

Sec. 54.041. ORDERS AFFECTING PARENTS AND OTHERS. (a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision and the juvenile court has made a finding that the child is in need of rehabilitation or that the protection of the public or the child requires that disposition be made, the juvenile court, on notice by any reasonable method to all persons affected, may:

(1) order any person found by the juvenile court to

have, by a wilful act or omission, contributed to, caused, or encouraged the child's delinquent conduct or conduct indicating a need for supervision to do any act that the juvenile court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the juvenile court determines to be injurious to the welfare of the child;

(2) enjoin all contact between the child and a person who is found to be a contributing cause of the child's delinquent conduct or conduct indicating a need for supervision;

(3) after notice and a hearing of all persons affected order any person living in the same household with the child to participate in social or psychological counseling to assist in the rehabilitation of the child and to strengthen the child's family environment; or

(4) after notice and a hearing of all persons affected order the child's parent or other person responsible for the child's support to pay all or part of the reasonable costs of treatment programs in which the child is required to participate during the period of probation if the court finds the child's parent or person responsible for the child's support is able to pay the costs.

(b) If a child is found to have engaged in delinquent conduct or conduct indicating a need for supervision arising from the commission of an offense in which property damage or loss or personal injury occurred, the juvenile court, on notice to all persons affected and on hearing, may order the child or a parent to make full or partial restitution to the victim of the offense. The program of restitution must promote the rehabilitation of the child, be appropriate to the age and physical, emotional, and mental abilities of the child, and not conflict with the child's schooling. When practicable and subject to court supervision, the court may approve a restitution program based on a settlement between the child and the victim of the offense. An order under this subsection may provide for periodic payments by the child or a parent of the child for the period specified in the order but except as provided by Subsection (h), that period may not extend past the date of the 18th birthday of the child or past the date the child is no longer enrolled in an accredited secondary school in a program leading toward a high school diploma, whichever date is later.

(c) Restitution under this section is cumulative of any other remedy allowed by law and may be used in addition to other remedies; except that a victim of an offense is not entitled to receive more than actual damages under a juvenile court order.

(d) A person subject to an order proposed under Subsection (a) of this section is entitled to a hearing on the order before the order is entered by the court.

(e) An order made under this section may be enforced as provided by Section 54.07 of this code.

(f) If a child is found to have engaged in conduct indicating a need for supervision described under Section 51.03(b)(2) or (g), the court may order the child's parents or guardians to attend a program described by Section 25.093(f), Education Code, if a program is available.

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for restitution that may be imposed on a parent under this section.

(h) If the juvenile court places the child on probation in a determinate sentence proceeding initiated under Section 53.045 and transfers supervision on the child's 18th birthday to a district court for placement on community supervision, the district court shall require the payment of any unpaid restitution as a condition of the community supervision. The liability of the child's parent for restitution may not be extended by transfer to a district court for supervision.

Added by Acts 1975, 64th Leg., p. 2157, ch. 693, Sec. 18, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 338, ch. 154, Sec. 2, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 528, ch. 110, Sec. 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 3262, ch. 565, Sec. 3, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 1170, Sec. 3, eff. June 16, 1989; Acts 1995, 74th Leg., ch. 262, Sec. 39, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 6.09, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1297, Sec. 24, eff. Sept. 1, 2001; Acts

2001, 77th Leg., ch. 1514, Sec. 15, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 19, eff. Sept. 1, 2003.

Sec. 54.0411. JUVENILE PROBATION DIVERSION FUND. (a) If a disposition hearing is held under Section 54.04 of this code, the juvenile court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, shall order the child, parent, or other person, if financially able to do so, to pay a fee as costs of court of \$20.

(b) Orders for the payment of fees under this section may be enforced as provided by Section 54.07 of this code.

(c) An officer collecting costs under this section shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the county treasury.

(d) Each officer collecting court costs under this section shall file the reports required under Article 103.005, Code of Criminal Procedure. If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

(e) The custodian of the county treasury may deposit the funds collected under this section in interest-bearing accounts. The custodian shall keep records of the amount of funds on deposit collected under this section and not later than the last day of the month following each calendar quarter shall send to the comptroller of public accounts the funds collected under this section during the preceding quarter. A county may retain 10 percent of the funds as a service fee and may retain the interest accrued on the funds if the custodian of a county treasury keeps records of the amount of funds on deposit collected under this section and remits the funds to the comptroller within the period prescribed under this subsection.

(f) Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the State Auditor.

(g) The comptroller shall deposit the funds in a special fund to be known as the juvenile probation diversion fund.

(h) The legislature shall determine and appropriate the necessary amount from the juvenile probation diversion fund to the Texas Juvenile Probation Commission for the purchase of services the commission considers necessary for the diversion of any juvenile who is at risk of commitment to the Texas Youth Commission. The Texas Juvenile Probation Commission shall develop guidelines for the use of the fund. The commission may not purchase the services if a person responsible for the child's support or a local juvenile probation department is financially able to provide the services.

Added by Acts 1987, 70th Leg., ch. 1040, Sec. 23, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 347, Sec. 8, eff. Oct. 1, 1989.

Sec. 54.042. LICENSE SUSPENSION. (a) A juvenile court, in a disposition hearing under Section 54.04, shall:

(1) order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.342(a), Transportation Code; or

(2) notify the Department of Public Safety of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.372(a), Transportation Code.

(b) A juvenile court, in a disposition hearing under Section 54.04, may order the Department of Public Safety to suspend a child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child, if the court finds that the child has engaged in conduct that violates Section 28.08, Penal Code.

(c) The order under Subsection (a)(1) shall specify a period of suspension or denial of 365 days.

(d) The order under Subsection (b) shall specify a period of suspension or denial:

(1) not to exceed 365 days; or

(2) of 365 days if the court finds the child has been previously adjudicated as having engaged in conduct violating Section 28.08, Penal Code.

(e) A child whose driver's license or permit has been

suspended or denied pursuant to this section may, if the child is otherwise eligible for, and fulfills the requirements for issuance of, a provisional driver's license or permit under Chapter 521, Transportation Code, apply for and receive an occupational license in accordance with the provisions of Subchapter L of that chapter.

(f) A juvenile court, in a disposition hearing under Section 54.04, may order the Department of Public Safety to suspend a child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 months if the court finds that the child has engaged in conduct in need of supervision or delinquent conduct other than the conduct described by Subsection (a).

(g) A juvenile court that places a child on probation under Section 54.04 may require as a reasonable condition of the probation that if the child violates the probation, the court may order the Department of Public Safety to suspend the child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 months. The court may make this order if a child that is on probation under this condition violates the probation. A suspension under this subsection is cumulative of any other suspension under this section.

(h) If a child is adjudicated for conduct that violates Section 49.04, 49.07, or 49.08, Penal Code, and if any conduct on which that adjudication is based is a ground for a driver's license suspension under Chapter 524 or 724, Transportation Code, each of the suspensions shall be imposed. The court imposing a driver's license suspension under this section shall credit a period of suspension imposed under Chapter 524 or 724, Transportation Code, toward the period of suspension required under this section, except that if the child was previously adjudicated for conduct that violates Section 49.04, 49.07, or 49.08, Penal Code, credit may not be given.

Added by Acts 1983, 68th Leg., p. 1605, ch. 303, Sec. 25, eff. Jan. 1, 1984. Amended by Acts 1985, 69th Leg., ch. 629, Sec. 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 784, Sec. 7, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 491, Sec. 3, eff. June 15, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.32, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 40, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 30.183, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 593, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(18), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 283, Sec. 20, eff. Sept. 1, 2003.

Sec. 54.043. MONITORING SCHOOL ATTENDANCE. If the court places a child on probation under Section 54.04(d) and requires as a condition of probation that the child attend school, the probation officer charged with supervising the child shall monitor the child's school attendance and report to the court if the child is voluntarily absent from school.

Added by Acts 1993, 73rd Leg., ch. 347, Sec. 6.02, eff. Sept. 1, 1993.

Sec. 54.044. COMMUNITY SERVICE. (a) If the court places a child on probation under Section 54.04(d), the court shall require as a condition of probation that the child work a specified number of hours at a community service project approved by the court and designated by the juvenile probation department as provided by Subsection (e), unless the court determines and enters a finding on the order placing the child on probation that:

(1) the child is physically or mentally incapable of participating in the project;

(2) participating in the project will be a hardship on the child or the family of the child; or

(3) the child has shown good cause that community service should not be required.

(b) The court may also order under this section that the child's parent perform community service with the child.

(c) The court shall order that the child and the child's parent perform a total of not more than 500 hours of community service under this section.

(d) A municipality or county that establishes a program to assist children and their parents in rendering community service under this section may purchase insurance policies protecting the

municipality or county against claims brought by a person other than the child or the child's parent for a cause of action that arises from an act of the child or parent while rendering community service. The municipality or county is not liable under this section to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute. The liability of the municipality or county for a cause of action that arises from an action of the child or the child's parent while rendering community service may not exceed \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury or death, and \$10,000 for a single occurrence of property damage. Liability may not extend to punitive or exemplary damages. This subsection does not waive a defense, immunity, or jurisdictional bar available to the municipality or county or its officers or employees, nor shall this section be construed to waive, repeal, or modify any provision of Chapter 101, Civil Practice and Remedies Code.

(e) For the purposes of this section, a court may submit to the juvenile probation department a list of organizations or projects approved by the court for community service. The juvenile probation department may:

(1) designate an organization or project for community service only from the list submitted by the court; and

(2) reassign or transfer a child to a different organization or project on the list submitted by the court under this subsection without court approval.

(f) A person subject to an order proposed under Subsection (a) or (b) is entitled to a hearing on the order before the order is entered by the court.

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for community service that may be imposed on a parent under this section.

(h) An order made under this section may be enforced as provided by Section 54.07.

(i) In a disposition hearing under Section 54.04 in which the court finds that a child engaged in conduct violating Section 521.453, Transportation Code, the court, in addition to any other order authorized under this title and if the court is located in a municipality or county that has established a community service program, may order the child to perform eight hours of community service as a condition of probation under Section 54.04(d) unless the child is shown to have previously engaged in conduct violating Section 521.453, Transportation Code, in which case the court may order the child to perform 12 hours of community service.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 41, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1358, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1297, Sec. 25, eff. Sept. 1, 2001.

Sec. 54.045. ADMISSION OF UNADJUDICATED CONDUCT. (a) During a disposition hearing under Section 54.04, a child may:

(1) admit having engaged in delinquent conduct or conduct indicating a need for supervision for which the child has not been adjudicated; and

(2) request the court to take the admitted conduct into account in the disposition of the child.

(b) If the prosecuting attorney agrees in writing, the court may take the admitted conduct into account in the disposition of the child.

(c) A court may take into account admitted conduct over which exclusive venue lies in another county only if the court obtains the written permission of the prosecuting attorney for that county.

(d) A child may not be adjudicated by any court for having engaged in conduct taken into account under this section, except that, if the conduct taken into account included conduct over which exclusive venue lies in another county and the written permission of the prosecuting attorney of that county was not obtained, the child may be adjudicated for that conduct, but the child's admission under this section may not be used against the child in the adjudication.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 41, eff. Jan. 1, 1996.

Sec. 54.046. CONDITIONS OF PROBATION FOR DAMAGING PROPERTY

WITH GRAFFITI. (a) If a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code, in addition to other conditions of probation, the court may, with consent of the owner of the property, order the child as a condition of probation to restore the property by removing or painting over any markings made by the child on the property.

(b) In addition to a condition imposed under Subsection (a), the court may require the child as a condition of probation to attend a class with instruction in self-responsibility and empathy for a victim of an offense conducted by a local juvenile probation department.

Added by Acts 1997, 75th Leg., ch. 593, Sec. 7, eff. Sept. 1, 1997.

Sec. 54.0461. PAYMENT OF JUVENILE DELINQUENCY PREVENTION FEES. (a) If a child is adjudicated as having engaged in delinquent conduct that violates Section 28.08, Penal Code, the juvenile court shall order the child, parent, or other person responsible for the child's support to pay to the court a \$5 juvenile delinquency prevention fee as a cost of court.

(b) The court shall deposit fees received under this section to the credit of the county juvenile delinquency prevention fund provided for under Article 102.0171, Code of Criminal Procedure.

(c) If the court finds that a child, parent, or other person responsible for the child's support is unable to pay the juvenile delinquency prevention fee required under Subsection (a), the court shall enter into the child's case records a statement of that finding. The court may waive a fee under this section only if the court makes the finding under this subsection.

Added by Acts 1999, 76th Leg., ch. 174, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 601, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.047. ALCOHOL RELATED OFFENSE. If the court or jury finds at an adjudication hearing for a child that the child engaged in conduct indicating a need for supervision or delinquent conduct that violates the alcohol-related offenses in Section 106.02, 106.025, 106.04, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, the court shall, subject to a finding under Section 54.04(c), order, in addition to any other order authorized by this title, that, in the manner provided by Section 106.071(d), Alcoholic Beverage Code:

(1) the child perform community service; and

(2) the child's driver's license or permit be suspended or that the child be denied issuance of a driver's license or permit.

Added by Acts 1997, 75th Leg., ch. 1013, Sec. 18, eff. Sept. 1, 1997. Renumbered from Sec. 54.046 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(19), eff. Sept. 1, 1999.

Sec. 54.048. RESTITUTION. (a) A juvenile court, in a disposition hearing under Section 54.04, may order restitution to be made by the child and the child's parents.

(b) This section applies without regard to whether the petition in the case contains a plea for restitution.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 26, eff. Sept. 1, 2001.

Sec. 54.049. CONDITIONS OF PROBATION FOR DESECRATING A CEMETERY OR ABUSING A CORPSE. (a) If a juvenile court places on probation under Section 54.04(d) a child adjudicated to have engaged in conduct in violation of Section 28.03(f), Penal Code, involving damage or destruction inflicted on a place of human burial or under Section 42.08, Penal Code, in addition to other conditions of probation, the court shall order the child to make restitution to a cemetery organization operating a cemetery affected by the conduct in an amount equal to the cost to the cemetery of repairing any damage caused by the conduct.

(b) If a juvenile court orders a child to make restitution under Subsection (a) and the child is financially unable to make the restitution, the court may order:

(1) the child to perform a specific number of hours of community service to satisfy the restitution; or

(2) a parent or other person responsible for the child's support to make the restitution in the amount described by Subsection (a).

(c) In this section, "cemetery" and "cemetery organization" have the meanings assigned by Section 711.001, Health and Safety Code.

Added by Acts 2005, 79th Leg., ch. 1025, Sec. 3, eff. June 18, 2005.

Sec. 54.05. HEARING TO MODIFY DISPOSITION. (a) Any disposition, except a commitment to the Texas Youth Commission, may be modified by the juvenile court as provided in this section until:

(1) the child reaches his 18th birthday; or

(2) the child is earlier discharged by the court or operation of law.

(b) Except for a commitment to the Texas Youth Commission, all dispositions automatically terminate when the child reaches his 18th birthday.

(c) There is no right to a jury at a hearing to modify disposition.

(d) A hearing to modify disposition shall be held on the petition of the child and his parent, guardian, guardian ad litem, or attorney, or on the petition of the state, a probation officer, or the court itself. Reasonable notice of a hearing to modify disposition shall be given to all parties.

(e) After the hearing on the merits or facts, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of other witnesses. Prior to the hearing to modify disposition, the court shall provide the attorney for the child with access to all written matter to be considered by the court in deciding whether to modify disposition. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(f) Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (k) are met, of the grade of misdemeanor, may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

(g) Except as provided by Subsection (j), a disposition based solely on a finding that the child engaged in conduct indicating a need for supervision may not be modified to commit the child to the Texas Youth Commission. A new finding in compliance with Section 54.03 must be made that the child engaged in delinquent conduct that meets the requirements for commitment under Section 54.04.

(h) A hearing shall be held prior to placement in a post-adjudication secure correctional facility for a period longer than 30 days or commitment to the Texas Youth Commission as a modified disposition. In other disposition modifications, the child and the child's parent, guardian, guardian ad litem, or attorney may waive hearing in accordance with Section 51.09.

(i) The court shall specifically state in the order its reasons for modifying the disposition and shall furnish a copy of the order to the child.

(j) If, after conducting a hearing to modify disposition without a jury, the court finds by a preponderance of the evidence that a child violated a reasonable and lawful condition of probation ordered under Section 54.04(q), the court may modify the disposition to commit the child to the Texas Youth Commission under Section 54.04(d)(3) for a term that does not exceed the original sentence assessed by the court or jury.

(k) The court may modify a disposition under Subsection (f) that is based on an adjudication that the child engaged in delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged

in delinquent conduct violating a penal law of the grade of felony or misdemeanor on at least one previous occasion before the adjudication that prompted the disposition that is being modified; and

(2) the conduct that was the basis of the adjudication that prompted the disposition that is being modified occurred after the date of the previous adjudication.

(1) The court may extend a period of probation under this section at any time during the period of probation or, if a motion for revocation or modification of probation is filed before the period of supervision ends, before the first anniversary of the date on which the period of probation expires.

(m) If the court places the child on probation outside the child's home or commits the child to the Texas Youth Commission, the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) 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; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1979, 66th Leg., p. 1829, ch. 743, Sec. 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 162, ch. 44, art. 1, Sec. 4, eff. April 26, 1983; Acts 1985, 69th Leg., ch. 45, Sec. 3, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 385, Sec. 10, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 557, Sec. 3, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 262, Sec. 42, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1448, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1477, Sec. 11, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 27, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 5.002, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 21, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 949, Sec. 15, eff. Sept. 1, 2005.

Sec. 54.051. TRANSFER OF DETERMINATE SENTENCE PROBATION TO APPROPRIATE DISTRICT COURT. (a) On motion of the state concerning a child who is placed on probation under Section 54.04(q) for a period, including any extension ordered under Section 54.05, that will continue after the child's 18th birthday, the juvenile court shall hold a hearing to determine whether to transfer the child to an appropriate district court or discharge the child from the sentence of probation.

(b) The hearing must be conducted before the child's 18th birthday and in the same manner as a hearing to modify disposition under Section 54.05.

(c) If, after a hearing, the court determines to discharge the child, the court shall specify a date on or before the child's 18th birthday to discharge the child from the sentence of probation.

(d) If, after a hearing, the court determines to transfer the child, the court shall transfer the child to an appropriate district court on the child's 18th birthday.

(e) A district court that exercises jurisdiction over a child transferred under Subsection (d) shall place the child on community supervision under Article 42.12, Code of Criminal Procedure, for the remainder of the child's probationary period and under conditions consistent with those ordered by the juvenile court.

(e-1) The restrictions on a judge placing a defendant on community supervision imposed by Section 3g, Article 42.12, Code of Criminal Procedure, do not apply to a case transferred from the juvenile court. The minimum period of community supervision imposed by Section 3(b), Article 42.12, Code of Criminal Procedure, does not apply to a case transferred from the juvenile court.

(e-2) If a child who is placed on community supervision under this section violates a condition of that supervision or if the child violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the

state before the child's 18th birthday, the district court shall dispose of the violation of community supervision or probation, as appropriate, in the same manner as if the court had originally exercised jurisdiction over the case. If the judge revokes community supervision, the judge may reduce the prison sentence to any length without regard to the minimum term imposed by Section 23(a), Article 42.12, Code of Criminal Procedure.

(e-3) The time that a child serves on probation ordered under Section 54.04(q) is the same as time served on community supervision ordered under this section for purposes of determining the child's eligibility for early discharge from community supervision under Section 20, Article 42.12, Code of Criminal Procedure.

(f) The juvenile court may transfer a child to an appropriate district court as provided by this section without a showing that the child violated a condition of probation ordered under Section 54.04(q).

(g) If the juvenile court places the child on probation for an offense for which registration as a sex offender is required by Chapter 62, Code of Criminal Procedure, and defers the registration requirement until completion of treatment for the sex offense under Subchapter H, Chapter 62, Code of Criminal Procedure, the authority under that article to reexamine the need for registration on completion of treatment is transferred to the court to which probation is transferred.

(h) If the juvenile court places the child on probation for an offense for which registration as a sex offender is required by Chapter 62, Code of Criminal Procedure, and the child registers, the authority of the court to excuse further compliance with the registration requirement under Subchapter H, Chapter 62, Code of Criminal Procedure, is transferred to the court to which probation is transferred.

(i) If the juvenile court exercises jurisdiction over a person who is 18 years of age or older under Section 51.041 or 51.0412, the court or jury may, if the person is otherwise eligible, place the person on probation under Section 54.04(q). The juvenile court shall set the conditions of probation and immediately transfer supervision of the person to the appropriate court exercising criminal jurisdiction under Subsection (e).

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 12, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 283, Sec. 22, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1008, Sec. 2.07, eff. Sept. 1, 2005.

Sec. 54.06. JUDGMENTS FOR SUPPORT. (a) At any stage of the proceeding, when a child has been placed outside the child's home, the juvenile court, after giving the parent or other person responsible for the child's support a reasonable opportunity to be heard, shall order the parent or other person to pay in a manner directed by the court a reasonable sum for the support in whole or in part of the child or the court shall waive the payment by order. The court shall order that the payment for support be made to the local juvenile probation department to be used only for residential care and other support for the child unless the child has been committed to the Texas Youth Commission, in which case the court shall order that the payment be made to the Texas Youth Commission for deposit in a special account in the general revenue fund that may be appropriated only for the care of children committed to the commission.

(b) At any stage of the proceeding, when a child has been placed outside the child's home and the parent of the child is obligated to pay support for the child under a court order under Title 5, the juvenile court shall order that the person entitled to receive the support assign the person's right to support for the child placed outside the child's home to the local juvenile probation department to be used for residential care and other support for the child unless the child has been committed to the Texas Youth Commission, in which event the court shall order that the assignment be made to the Texas Youth Commission.

(c) A court may enforce an order for support under this section by ordering garnishment of the wages of the person ordered to pay support or by any other means available to enforce a child support order under Title 5.

(d) Repealed by Acts 2003, 78th Leg., ch. 283, Sec. 61(1).

(e) The court shall apply the child support guidelines under Subchapter C, Chapter 154, in an order requiring the payment of

child support under this section. The court shall also require in an order to pay child support under this section that health insurance be provided for the child. Subchapter D, Chapter 154, applies to an order requiring health insurance for a child under this section.

(f) An order under this section prevails over any previous child support order issued with regard to the child to the extent of any conflict between the orders.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1983, 68th Leg., p. 163, ch. 44, art. 1, Sec. 5, eff. April 26, 1983; Acts 1987, 70th Leg., ch. 1040, Sec. 24, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 798, Sec. 23, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 1048, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 262, Sec. 43, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 7.11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 283, Sec. 61(1), eff. Sept. 1, 2003.

Sec. 54.061. PAYMENT OF PROBATION FEES. (a) If a child is placed on probation under Section 54.04(d)(1) of this code, the juvenile court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, shall order the child, parent, or other person, if financially able to do so, to pay to the court a fee of not more than \$15 a month during the period that the child continues on probation.

(b) Orders for the payment of fees under this section may be enforced as provided by Section 54.07 of this code.

(c) The court shall deposit the fees received under this section in the county treasury to the credit of a special fund that may be used only for juvenile probation or community-based juvenile corrections services or facilities in which a juvenile may be required to live while under court supervision.

(d) If the court finds that a child, parent, or other person responsible for the child's support is financially unable to pay the probation fee required under Subsection (a), the court shall enter into the records of the child's case a statement of that finding. The court may waive a fee under this section only if the court makes the finding under this subsection.

Added by Acts 1979, 66th Leg., p. 338, ch. 154, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2425, ch. 617, Sec. 4, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 1040, Sec. 25, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 262, Sec. 44, eff. Jan. 1, 1996.

Sec. 54.07. ENFORCEMENT OF ORDER. (a) Except as provided by Subsection (b) or a juvenile court child support order, any order of the juvenile court may be enforced as provided by Chapter 61.

(b) A violation of any of the following orders of the juvenile court may not be enforced by contempt of court proceedings against the child:

- (1) an order setting conditions of probation;
- (2) an order setting conditions of deferred prosecution; and
- (3) an order setting conditions of release from detention.

(c) This section and Chapter 61 do not preclude a juvenile court from summarily finding a child or other person in direct contempt of the juvenile court for conduct occurring in the presence of the judge of the court. Direct contempt of the juvenile court by a child is punishable by a maximum of 10 days' confinement in a secure juvenile detention facility or by a maximum of 40 hours of community service, or both. The juvenile court may not impose a fine on a child for direct contempt.

(d) This section and Chapter 61 do not preclude a juvenile court in an appropriate case from using a civil or coercive contempt proceeding to enforce an order.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1979, 66th Leg., p. 339, ch. 154, Sec. 3, eff. Sept. 1, 1979; Acts 2003, 78th Leg., ch. 283, Sec. 23, eff. Sept. 1, 2003.

Sec. 54.08. PUBLIC ACCESS TO COURT HEARINGS. (a) Except as provided by this section, the court shall open hearings under this title to the public unless the court, for good cause shown, determines that the public should be excluded.

(b) The court may not prohibit a person who is a victim of the conduct of a child, or the person's family, from personally attending a hearing under this title relating to the conduct by the child unless the victim or member of the victim's family is to testify in the hearing or any subsequent hearing relating to the

conduct and the court determines that the victim's or family member's testimony would be materially affected if the victim or member of the victim's family hears other testimony at trial.

(c) If a child is under the age of 14 at the time of the hearing, the court shall close the hearing to the public unless the court finds that the interests of the child or the interests of the public would be better served by opening the hearing to the public.

(d) In this section, "family" has the meaning assigned by Section 71.003.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1987, 70th Leg., ch. 385, Sec. 11, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 262, Sec. 45, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1086, Sec. 12, eff. Sept. 1, 1997.

Sec. 54.09. RECORDING OF PROCEEDINGS. All judicial proceedings under this chapter except detention hearings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means. Upon request of any party, a detention hearing shall be recorded.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973.

Sec. 54.10. HEARINGS BEFORE REFEREE.

Text of subsec. (a) effective until date on which Interstate Compact for Juveniles takes effect.

(a) Except as provided by Subsection (e), a hearing under Section 54.03, 54.04, or 54.05, including a jury trial, a hearing under Chapter 55, including a jury trial, or a hearing under Article IV, Article V, and Article VI of the Uniform Interstate Compact on Juveniles (Chapter 60) may be held by a referee appointed in accordance with Section 51.04(g) or a master appointed under Chapter 54, Government Code, provided:

(1) the parties have been informed by the referee or master that they are entitled to have the hearing before the juvenile court judge; and

(2) after each party is given an opportunity to object, no party objects to holding the hearing before the referee or master.

Text of subsec. (a) effective upon date on which Interstate Compact for Juveniles takes effect.

(a) Except as provided by Subsection (e), a hearing under Section 54.03, 54.04, or 54.05, including a jury trial, a hearing under Chapter 55, including a jury trial, or a hearing under the Interstate Compact for Juveniles (Chapter 60) may be held by a referee appointed in accordance with Section 51.04(g) or a master appointed under Chapter 54, Government Code, provided:

(1) the parties have been informed by the referee or master that they are entitled to have the hearing before the juvenile court judge; and

(2) after each party is given an opportunity to object, no party objects to holding the hearing before the referee or master.

(b) The determination under Section 53.02(f) whether to release a child may be made by a referee appointed in accordance with Section 51.04(g) if:

(1) the child has been informed by the referee that the child is entitled to have the determination made by the juvenile court judge or a substitute judge authorized by Section 51.04(f); or

(2) the child and the attorney for the child have in accordance with Section 51.09 waived the right to have the determination made by the juvenile court judge or a substitute judge.

(c) If a child objects to a referee making the determination under Section 53.02(f), the juvenile court judge or a substitute judge authorized by Section 51.04(f) shall make the determination.

(d) At the conclusion of the hearing or immediately after making the determination, the referee shall transmit written findings and recommendations to the juvenile court judge. The juvenile court judge shall adopt, modify, or reject the referee's recommendations not later than the next working day after the day that the judge receives the recommendations. Failure to act within that time results in release of the child by operation of law and a recommendation that the child be released operates to secure the child's immediate release subject to the power of the juvenile court judge to modify or reject that recommendation.

(e) The hearings provided by Sections 54.03, 54.04, and 54.05 may not be held before a referee if the grand jury has

approved of the petition and the child is subject to a determinate sentence.

Added by Acts 1975, 64th Leg., p. 2157, ch. 693, Sec. 19, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1830, ch. 743, Sec. 2, eff. Aug. 27, 1979; Acts 1987, 70th Leg., ch. 385, Sec. 12, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 74, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1086, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 232, Sec. 5, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1477, Sec. 13, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 1007, Sec. 2.03.

Sec. 54.11. RELEASE OR TRANSFER HEARING. (a) On receipt of a referral under Section 61.079(a), Human Resources Code, for the transfer to the institutional division of the Texas Department of Criminal Justice of a person committed to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a request by the commission under Section 61.081(g), Human Resources Code, for approval of the release under supervision of a person committed to the commission under Section 54.04(d)(3), 54.04(m), or 54.05(f), the court shall set a time and place for a hearing on the release of the person.

(b) The court shall notify the following of the time and place of the hearing:

(1) the person to be transferred or released under supervision;

(2) the parents of the person;

(3) any legal custodian of the person, including the Texas Youth Commission;

(4) the office of the prosecuting attorney that represented the state in the juvenile delinquency proceedings;

(5) the victim of the offense that was included in the delinquent conduct that was a ground for the disposition, or a member of the victim's family; and

(6) any other person who has filed a written request with the court to be notified of a release hearing with respect to the person to be transferred or released under supervision.

(c) Except for the person to be transferred or released under supervision and the prosecuting attorney, the failure to notify a person listed in Subsection (b) of this section does not affect the validity of a hearing conducted or determination made under this section if the record in the case reflects that the whereabouts of the persons who did not receive notice were unknown to the court and a reasonable effort was made by the court to locate those persons.

(d) At a hearing under this section the court may consider written reports from probation officers, professional court employees, professional consultants, or employees of the Texas Youth Commission, in addition to the testimony of witnesses. At least one day before the hearing, the court shall provide the attorney for the person to be transferred or released under supervision with access to all written matter to be considered by the court.

(e) At the hearing, the person to be transferred or released under supervision is entitled to an attorney, to examine all witnesses against him, to present evidence and oral argument, and to previous examination of all reports on and evaluations and examinations of or relating to him that may be used in the hearing.

(f) A hearing under this section is open to the public unless the person to be transferred or released under supervision waives a public hearing with the consent of his attorney and the court.

(g) A hearing under this section must be recorded by a court reporter or by audio or video tape recording, and the record of the hearing must be retained by the court for at least two years after the date of the final determination on the transfer or release of the person by the court.

(h) The hearing on a person who is referred for transfer under Section 61.079(a), Human Resources Code, shall be held not later than the 60th day after the date the court receives the referral.

(i) On conclusion of the hearing on a person who is referred for transfer under Section 61.079(a), Human Resources Code, the court may order:

(1) the return of the person to the Texas Youth Commission; or

(2) the transfer of the person to the custody of the

institutional division of the Texas Department of Criminal Justice for the completion of the person's sentence.

(j) On conclusion of the hearing on a person who is referred for release under supervision under Section 61.081(f), Human Resources Code, the court may order the return of the person to the Texas Youth Commission:

(1) with approval for the release of the person under supervision; or

(2) without approval for the release of the person under supervision.

(k) In making a determination under this section, the court may consider the experiences and character of the person before and after commitment to the youth commission, the nature of the penal offense that the person was found to have committed and the manner in which the offense was committed, the abilities of the person to contribute to society, the protection of the victim of the offense or any member of the victim's family, the recommendations of the youth commission and prosecuting attorney, the best interests of the person, and any other factor relevant to the issue to be decided.

(l) Pending the conclusion of a transfer hearing, the juvenile court shall order that the person who is referred for transfer be detained in a certified juvenile detention facility as provided by Subsection (m). If the person is at least 17 years of age, the juvenile court may order that the person be detained without bond in an appropriate county facility for the detention of adults accused of criminal offenses.

(m) The detention of a person in a certified juvenile detention facility must comply with the detention requirements under this title, except that, to the extent practicable, the person must be kept separate from children detained in the same facility.

(n) If the juvenile court orders that a person who is referred for transfer be detained in a county facility under Subsection (l), the county sheriff shall take custody of the person under the juvenile court's order.

Added by Acts 1987, 70th Leg., ch. 385, Sec. 13, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 574, Sec. 3, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 262, Sec. 46, eff. Jan. 1, 1996; Acts 2001, 77th Leg., ch. 1297, Sec. 29, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 24, eff. Sept. 1, 2003.