

# Petition, Summons and Service



## Speaker Information

Bill Pattillo received his B.A. from the University of Texas in 1991 and he received his J.D. from Texas Tech School of Law in 1995. Since 1995, he has served as a prosecutor in Montgomery County, Texas and is currently in private practice. In 2001, he became board certified in Juvenile Law. Bill Pattillo serves on several committees within Montgomery County and he has lectured on various juvenile matters.

## Contact Information

William "Bill" Patillo  
Attorney at Law  
220 West Davis  
Conroe, Texas 77301  
Telephone 936.539.5522  
E-Mail WilliamPattillo@hotmail.com

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## PETITION

### *Section 53.04 of the Juvenile Justice Code*

**A. If the preliminary investigation, required by Section 53.01 of this code results in a determination that further proceedings are authorized and warranted,<sup>1</sup> a petition for an adjudication or transfer hearing of a child alleged to have engaged in delinquent conduct or conduct indicating a need for supervision may be made as promptly as practicable by a prosecuting attorney who has knowledge of the facts alleged or is informed and believes that they are true.<sup>2</sup>**

1. The intake officer, probation officer, or other person authorized by the court conducts a preliminary investigation to determine:
  - a. Whether the person referred is a juvenile; and
  - b. Whether there is probable cause to believe the person engaged in delinquent conduct or conduct indicating a need for supervision.<sup>3</sup>
  - c. If Probable Cause exists, cases involving Capital Murder & Murder must be referred to the prosecutor.<sup>4</sup>
2. A prosecutor may obtain advice from a grand jury on whether a petition should be filed.
  - a. If the grand jury votes to take no action, the prosecutor may not proceed forward unless the same grand jury or a successor grand jury approves the filing of the petition.<sup>5</sup>
  - b. Approval of the Grand Jury under §53.035 is not the same as approval of a Petition filed under the Determinate Sentence Act and may not be used as such.<sup>6</sup>
3. The Petition must be filed within certain time limitations.
  - a. TFC §53.04 states a petition may be made as promptly as practicable
  - b. Before 1997 - Probably the four year residual limitation of the Civil Practice and Remedies Code, Section 16.051 would apply.
  - c. After 1997, TFC §51.19 provides that the Criminal Statute of Limitations apply.
    - (1) No limitation - capital murder & murder
    - (2) 10 years - some thefts, forgery, indecency with a child by contact
    - (3) 5 years - theft, burglary, robbery, arson, or sexual assault
    - (4) 10 years from the 18<sup>th</sup> birthday of the victim - Indecency with a child by contact, sexual assault of a child, aggravated sexual assault of a child
    - (5) 3 years - all other felonies
    - (6) 2 year - all misdemeanors<sup>7</sup>
  - d. A petition may be filed as promptly as practicable - no case law interprets this.<sup>8</sup>
  - e. For detained juveniles other time restrictions apply:
    - (1) Must file petition within 30 working days for capital murder, 1<sup>st</sup> degree felonies, and aggravated controlled substance felonies.
    - (2) Must file petition within 15 working days for other offenses.
    - (3) Must file petition within 15 working days for conduct that violates an order of probation imposed by a juvenile court.
    - (4) Failure to comply with the filing deadlines means that the court shall order the child released from detention.<sup>9</sup>
    - (5) Hearing must be set for a date within 10 working days after petition is filed.<sup>10</sup>

- f. The petition is filed when it is received by the clerk, not when it is placed in the file.<sup>11</sup>
- 4. A prosecuting attorney who has knowledge of the facts alleged or is informed and believes that they are true files the petition.
  - a. The decision of whether to file a petition rests exclusively with the prosecutor.<sup>12</sup>
  - b. Personal knowledge is not required.<sup>13</sup>
- 5. Venue is in two places:
  - a. County where offense occurred; or
  - b. County where Juvenile Resides if:
    - (1) Juvenile under probation at time of offense;
    - (2) No determination of where offense occurred has been made; or
    - (3) County of residence accepts case in writing prior to transfer<sup>14</sup>

**B. The proceedings shall be styled "In the matter of \_\_\_\_\_."**<sup>15</sup>

- 1. There is no requirement that the petition be sworn to by the prosecuting attorney.<sup>16</sup>
- 2. The petition does not have to conform to the requirements that govern the forms of indictments, informations, and complaints.<sup>17</sup>

**C. The petition may be on information and belief.**<sup>18</sup>

**D. The petition must state with reasonable particularity the time, place, and manner of the acts alleged and the penal law or standard of conduct allegedly violated by the acts.**

- 1. Pleading the time
  - a. Pleading on or about should be specific enough just as it is in criminal cases.
  - b. Pleading time of day should not be necessary unless time specific ordinances or statutes are implicated.
- 2. Pleading Place
  - a. At a minimum, the state must allege in its petition that the act(s) occurred within a particular county.<sup>19</sup>
  - b. Sometimes, more specific allegations should be made to satisfy adequate notice requirements such as cases involving Possession of a Controlled Substance in a School Zone.
  - c. Pleading venue is not specially required under §53.04
  - d. Typically, cases are filed in county where offense occurred, and venue is plead when alleging where offense occurred.
  - e. For those cases tried where juvenile resides, including county in juvenile's residential address may be enough to plead & establish venue.
- 3. Pleading the manner of the acts alleged
  - a. Several offenses may be plead in a single petition.<sup>20</sup>
  - b. Judge has discretion to require a separate hearing for each offense.<sup>21</sup>
  - c. Severance of offenses is not required in transfer hearings.<sup>22</sup>

- d. If juvenile objects to separate transactions being heard in the same trial, best course of action is to grant a severance. If common questions of law & fact are present, then they may be tried together. Consider Criminal Rules of Evidence, however, when making the decision of severance for trial.<sup>23</sup>
- e. Pleading Law of Parties is not required.<sup>24</sup>
- d. There is a more liberal standard of pleading in juvenile cases.
- e. Safest course is to plead as you would in criminal pleadings.
- f. The pleading will be fatally defective if a statutory element is omitted.<sup>25</sup>
- g. The pleading will not be fatally defective if the elements are not particularized to the facts of the case at hand.<sup>26</sup>
- h. Section 54.04 requires pleading penal law or standard of conduct violated; however, failing to do so is not fatally defective as long as all elements are properly plead.<sup>27</sup>
- i. If penal law is plead, it will sometimes save a poorly plead petition.
- j. Prior adjudications must be plead if filing under the determinate sentence provisions if alleging habitual felony conduct.<sup>28</sup>
- k. To preserve error regarding defective pleadings, an appellant must make a timely, specific objection, and obtain an adverse ruling.<sup>29</sup>
- l. When a petition alleges some but not all of the alternative statutory methods of committing an offense, the State must prove the method or methods alleged and any variance in this regard is material.<sup>30</sup>

**E. The petition must state the name, age, and residence address, if known, of the child who is the subject of the petition.**

- 1. The residence enables the court to direct service of the petition and summons on the child and also serves to establish venue in some cases.
- 2. The age establishes jurisdiction.

**F. The petition must state the names and residence addresses, if known, of the parent, guardian, or custodian of the child and of the child's spouse, if any.**

- 1. A parent is the mother, the father (whether or not the child is legitimate) or an adoptive parent.<sup>31</sup>
- 2. A parent whose rights have been terminated is not a parent.<sup>32</sup>
- 3. A guardian includes a person who is the guardian under court order or the public or private agency with whom the child has been placed by a court.<sup>33</sup>
- 4. A custodian is not a party to the proceedings; however, the court may appoint the custodian as guardian ad litem.<sup>34</sup>

**G. If the child's parent, guardian, or custodian does not reside or cannot be found in the state, or if their places of residence are unknown, the petition must state the name and residence address of any known adult relative residing in the county or, if there is none, the name and residence address of the known adult relative residing nearest to the location of the court.**

A court has excused strict compliance with section 53.04(d), stating no harm was shown and that the failure to plead this requirement correctly was not fundamental.<sup>35</sup>

**H. An oral or written answer to the petition may be made at or before the commencement of the hearing. If there is no answer, a general denial of the alleged conduct is assumed.<sup>36</sup>**

**I. Although not specifically required by the Texas Family Code, adjudication petitions typically pray that the court find:**

1. The respondent has engaged in delinquent conduct or conduct indicating a need for supervision; and,
2. The child is in need of rehabilitation or the protection of the public or the child requires that disposition be made.
3. Both a finding of delinquency or CINS, and a finding that a disposition is required, must be made before a court may place a child on probation.<sup>37</sup>
4. If commitment to TYC is sought, then it is also a good idea to pray for a finding 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.<sup>38</sup>
5. Even if restitution has not been requested in the petition, a juvenile court may order restitution to be made by the child and the child's parents<sup>39</sup>

## SUMMONS

### *Section 53.06 of the Juvenile Justice Code*

The purpose of the summons is to give notice of the date, time, and place of the court hearing on the allegations of the petition.

**A. The juvenile court shall direct issuance of a summons to: the child named in the petition; the child's parent, guardian, or custodian; the child's guardian ad litem; and any other person who appears to the court to be a proper or necessary party to the proceeding.**

1. A juvenile court has jurisdiction if, after a reasonable effort, a party other than a child cannot be found.<sup>40</sup>
2. The state should demonstrate efforts to locate a parent or guardian on the record to allow the court to have jurisdiction despite lack of service on the parents.
3. The issuance of summons to either of the child's parents is sufficient.<sup>41</sup>
4. The issuance of summons to a custodian, rather than parents, will also suffice.<sup>42</sup>
5. If a child is married, the attorney general has opined that it is still necessary for the juvenile court to direct service of summons on a parent, guardian, or custodian.<sup>43</sup>
6. One court has held that if a parent is served, it is not necessary to serve a spouse; however, the preferred course is to issue summons for all necessary parties.<sup>44</sup>
7. One court has held that service on a guardian ad litem is not required when mother is served and appears at the hearing.<sup>45</sup>
8. If the child's attorney has been appointed as the child's guardian ad litem, it is not necessary to serve the attorney twice.<sup>46</sup>
9. If a parent has been served, but fails to show up at the hearing, the court may proceed forward. However, the court must appoint a guardian ad litem before doing so.<sup>47</sup>
10. Every parent, managing conservator, possessory conservator, court-appointed custodian, and guardian has a duty to attend all juvenile court hearings other than detention hearings and therefore is entitled to reasonable written or oral notice that includes a statement of the place, date, and time of the hearing and that the attendance of the person is required.<sup>48</sup>
  - a. The duty to attend does not apply to those from whom the court waives attendance for good cause shown; a person who is not a resident of this state; or a parent of a child from whom a managing conservator has been appointed and the parent is not a conservator of the child.<sup>49</sup>
  - b. If a person who is required under section 51.115 fails to attend, the court may proceed with the hearing.<sup>50</sup>
  - c. All that needs to be shown on the state's part is that reasonable efforts were made to give notice to the required parties.
  - d. If someone who has a duty to attend receives notice and fails to attend, the court may hold that adult in contempt and fine that person \$100.00 to \$1000.00. In addition to or instead of a fine, the court may order the person to receive counseling or attend an educational course on the duties and responsibilities of parents and skills and techniques on raising children.<sup>51</sup>

**B. The summons must require the persons served to appear before the court at the time set to answer the allegations of the petition.<sup>52</sup>**

1. The purpose of the summons is to give notice of time and place of the hearing.
2. The purpose of the petition is to provide notice of the charges and relief sought.
3. When summons is signed by court clerk, it is presumed issued by direction of the court. It is not also necessary that there be an order by the juvenile court directing the clerk to issue summons.<sup>53</sup>
4. If a person to be served with a summons is in this state and can be found, the summons shall be served upon him personally at least two days before the day of the adjudication hearing.<sup>54</sup>
5. If he resides in the state, but cannot be personally served, he may be served by mailing a copy by registered or certified mail at least five days before the hearing.<sup>55</sup>
6. If the person resides out of state, he may be served by mailing a copy by registered or certified mail at least five days before the hearing.<sup>56</sup>
7. The juvenile court has jurisdiction of the case if, after reasonable effort a person other than the child cannot be found nor his post-office address ascertained, whether he is in or outside this state.<sup>57</sup>

**C. A copy of the petition must accompany the summons.**

1. It is not required that the summons state that it is accompanied by a copy of the petition.<sup>58</sup>
2. If the return recites that summons was served, and the summons recites that a copy of the petition accompanies it, that suffices, in absence of proof to the contrary, as evidence that the petition was served with the summons.<sup>59</sup>
3. It is not necessary that a copy of the petition be attached to the return of service filed with the juvenile court.<sup>60</sup>
4. When the summons recites that a copy of the petition is attached that creates a presumption that the petition was attached to it which can be rebutted only by specific evidence that it was not.<sup>61</sup>
5. When the summons recites that a copy of an original petition is attached rather than a first amended petition, the presumption that an original petition was served may be overcome by evidence that a first amended petition was served instead.<sup>62</sup>
6. Oral summons are permissible where a juvenile court personally serves a respondent and his guardian with copies of the petition in court on the record.<sup>63</sup>

**D. Transfer Proceedings require additional language in the summons.<sup>64</sup>**

1. The summons must state the hearing is for the purpose of considering discretionary transfer to criminal court.<sup>65</sup>
  - a. The requirement has been strictly construed.
  - b. The attorney alone cannot waive the defect; if it can be waived, then the child must join in the waiver.<sup>66</sup>
  - c. The statute does not have to be exactly tracked, but the gist of §54.02(b) must be stated.<sup>67</sup>
  - d. The failure to contain the mandatory language is a jurisdictional defect.<sup>68</sup>
  - e. It may be enough to have the summons specifically reference the attached petition and the petition to include the mandatory language.<sup>69</sup>
  - f. A claim of defect in summons may be appealed only following a criminal conviction.<sup>70</sup>



2. If the respondent is over 18 years of age at the time of the certification proceedings, the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under subsection (j) of §54.02.<sup>71</sup>
3. If a child has previously been transferred and commits a new felony before becoming 17 years old, then transfer to criminal court is mandatory.<sup>72</sup>
  - a. Summons must provide fair notice that hearing is to consider mandatory transfer to criminal court.<sup>73</sup>
  - b. No particular set of words is required.<sup>74</sup>

**E. The court may endorse on the summons an order directing the person having the physical custody or control of the child to bring the child to the hearing.**

1. The juvenile court may issue a writ of attachment for a person who violates this order.<sup>75</sup>
2. The juvenile court may enforce this order by contempt.<sup>76</sup>

**F. If it appears from an affidavit filed or from sworn testimony before the court that immediate detention of the child is warranted under section 53.02(b) of the family code, the court may endorse on the summons an order that a law-enforcement officer shall serve the summons and shall immediately take the child into custody and bring him before the court.**

1. This will occur in circumstances where the probation department has made contact with the juvenile via a paper referral from law-enforcement agency and has made a determination that the juvenile should be detained or where the child has been released from detention and the probation department learns of circumstances warranting detention of the child.
2. The affidavit or testimony must prove up one of the five detention criteria listed under §53.02(b)

**G. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing.**

1. There MUST BE personal service on the child for jurisdiction purposes.<sup>77</sup>
  - a. Service on the child's attorney is not sufficient.<sup>78</sup>
  - b. Service on child's parent is not sufficient.<sup>79</sup>
  - c. Service by certified mail is not sufficient.
2. A child may NOT waive service.<sup>80</sup>
3. One court has held that a child may waive a defect in a return of service.<sup>81</sup>
4. If no return of service is in a court's file, and a juvenile states he has not been served, the court has no jurisdiction.<sup>82</sup>
5. If a return of service recites that personal service was not had upon a juvenile, but a juvenile-respondent admits on the record that he was personally served with summons and petition, his admission in court may override the contrary recitation in the return of service.<sup>83</sup>
6. Other parties may waive by written stipulation.
7. Other parties may waive by voluntary appearance.<sup>84</sup>

**H. The burden is upon the state to show a juvenile has been served.<sup>85</sup>**

1. A recitation in a Return of Service that the petition and summons were personally served on the juvenile respondent is proof of personal service in the absence of rebutting evidence.<sup>86</sup>
2. A return of service that recites that the citation has been personally served on the juvenile respondent may be enough to prove service of both petition and summons.<sup>87</sup>

3. Failure of record to show adjudication petition was served on juvenile requires reversal without a showing of harm.<sup>88</sup>
4. A new summons need not be served each time a hearing is reset or continued.<sup>89</sup>
5. A new summons need not be served each time a petition is amended.<sup>90</sup>
6. An amended petition may be served on a child less than two days before hearing.<sup>91</sup>
7. However, if seeking new relief such as requesting transfer rather than adjudication, new summons and service is required.<sup>92</sup>

**I. Service of the summons may be made by any suitable person under the direction of the court.<sup>93</sup>**

1. The following may serve the summons:
  - a. Any person who is at least eighteen authorized by written order of the court.<sup>94</sup>
  - b. No person who is a part to or interested in the outcome of a suit shall serve any process.<sup>95</sup>
  - c. A probation officer may serve the summons.<sup>96</sup>

CAUSE NO.

IN THE MATTER OF  
JUNIOR JUVEY  
JUVENILE-RESPONDENT

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IN THE JUVENILE COURT  
OF  
MONTGOMERY COUNTY, TEXAS

ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the County Attorney of Montgomery County, Texas, hereinafter styled Petitioner, and files this Petition on information and belief against JUNIOR JUVEY, Juvenile-Respondent, alleging that Juvenile-Respondent has engaged in DELINQUENT CONDUCT, and in support thereof would show the court the following:

I.

At the time of the commission of the acts alleged herein, the Juvenile-Respondent was over the age of 10 years and under the age of 17 years, having been born on **APRIL 1, 1990**. He/She resides at **90210 TANGLED WEAVE, BIGCITY**, Montgomery County, Texas 77381. The names and addresses of his/her parent(s)/guardian(s) are:

Mother: JUDY JUVEY  
90210 Tangled Weave  
Bigcity, Texas 77381

Father: JIM JUVEY  
Location unknown

II. Allegations

Petitioner alleges Juvenile-Respondent has engaged in Delinquent Conduct by reason of the following facts:

- 4. Indecency with a child: On or about July 2, 2004, in Montgomery County, Texas, Junior Juvie, Juvenile-Respondent, did then and there engage in sexual contact with Polly Pureheart, a child younger than 17 years of age and not the spouse of Juvenile-Respondent, by touching Polly Pureheart on her breast, with intent to arouse or gratify the sexual desire of any person, in violation of section 21.11 of the Texas Penal Code.

III. Disposition

Petitioner requests that Juvenile-Respondent be found to have engaged in delinquent conduct. Petitioner further requests that the court find that Juvenile-Respondent is in need of rehabilitation or the protection of the public or the Juvenile-Respondent requires that disposition be made, and that the court make a disposition which the Court deems appropriate and proper.

Petitioner requests that the court find it is in the child's best interest to be placed outside the child's home; that 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 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.

#### **IV. Court Costs**

Petitioner requests that the Court order Juvenile-Respondent or his/her parent(s)/guardian(s) to pay a twenty dollar (\$20.00) fee as Costs of Court.

#### **IV. Probation Fees**

Petitioner requests that if, after adjudication, the Court determines that Juvenile-Respondent should be placed on probation, the Court order Juvenile-Respondent or his/her parent(s)/guardian(s) to pay the Montgomery County Juvenile Probation Department a fee of not more than fifteen dollars (\$15.00) each month during the Court-ordered probationary period.

#### **V. Court Appointed Attorney Fees**

Petitioner requests that the Court order the parent(s)/guardian(s) of Juvenile-Respondent to pay the Montgomery County Juvenile Probation Department all court appointed attorney fees.

#### **VI. Child Support**

Petitioner requests that the Court order the parent(s)/guardian(s) of Juvenile-Respondent to pay the Montgomery County Juvenile Probation Department all expenses incurred for the residential care and other support of Juvenile-Respondent while he/she remains in the Montgomery County Juvenile Detention Facility.

Petitioner further requests the Court order the parent(s)/guardian(s) of Juvenile-Respondent to pay support if the Juvenile-Respondent is placed outside the home or committed to the Texas Youth Commission.

#### **VII. Restitution**

Petitioner requests that the Court order the parent(s)/guardian(s) of Juvenile-Respondent to pay the Montgomery County Juvenile Probation Department all restitution for the benefit of the victims in this matter.

#### **VIII. Orders Affecting Parents and Others**

Petitioner requests that the Court find the parents of said Juvenile-Respondent have, by wilful act or omission, contributed to, caused, or encouraged, Juvenile-Respondent's delinquent conduct, and order the parents to do any act that the Court determines to be reasonable and necessary for the welfare of Juvenile-Respondent.

#### **PRAYER**

Petitioner prays the Court issue such citation and notice as the law requires, that Junior Juvey, Juvenile-Respondent, be adjudged a **CHILD ENGAGED IN DELINQUENT CONDUCT** and for such further relief as justice requires.

Respectfully Submitted,

Tad Piquent  
Assistant County Attorney  
SBN: 00439784  
210 West Davis  
Anytown, Texas 77301  
(936) 539-7828  
(936) 539-7922 (FAX)

CAUSE NO.

IN THE MATTER OF  
JUNIOR JUVEY  
JUVENILE-RESPONDENT

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IN THE JUVENILE COURT  
OF  
MONTGOMERY COUNTY, TEXAS

SUMMONS

**YOU ARE HEREBY COMMANDED TO SUMMON:**

**JUNIOR JUVEY**, Juvenile-Respondent in the above styled and numbered cause, and Judy Juvey, parent(s)/guardian(s) of the above named Juvenile-Respondent, to be, appear, and produce the said Juvenile-Respondent, before the Juvenile Court of Montgomery County, Texas, located at 110 West Davis Street, Conroe, Texas on the **9th DAY OF SEPTEMBER 2004**, A.D. at 8:30 A.M., for a hearing on the attached petition to declare Juvenile-Respondent a Child Engaged in Delinquent Conduct and for all relief requested in the attached petition.

The said Juvenile-Respondent must have an attorney for this hearing. It is the responsibility of the parent(s)/guardian(s) to pay for legal expenses. If you are unable to afford an attorney, one will be appointed to represent the Juvenile-Respondent. Juvenile-Respondent and the parent(s)/guardian(s) may appear in court the Monday following service of this summons and present proof of indigence to the court in order to have an attorney appointed pursuant to Tex. Fam. Code § 51.101.

A true copy of this summons and the attached petition you will deliver to the following:

**JUNIOR JUVEY**, 90210 Tangled Weave, Bigcity, Montgomery County, Texas, 77381; and,  
**JUDY JUVEY**, 90210 Tangled Weave, Bigcity, Montgomery County, Texas 77381.

**HEREIN FAIL NOT**, under penalty of law, and of the writ make due return on the **6th day of September, 2004**.

Witness, Barbara Gladden Adamick, Clerk of said Court, and seal thereof, at her office in the City of Conroe, Montgomery County, Texas, the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Barbara Gladden Adamick  
Clerk, Juvenile Court  
Montgomery County, Texas

By:

Deputy

**RETURN**

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 2004 A.D., and executed in  
\_\_\_\_\_ County, Texas, by delivering on the \_\_\_\_\_ day of \_\_\_\_\_,  
2004, A.D., at \_\_\_\_\_ o'clock \_\_\_\_\_ M., to \_\_\_\_\_ in person, a true copy of this  
**SUMMONS** and the attached **ORIGINAL PETITION**.

Signature

Title

## ENDNOTES

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1. The Texas Attorney general opined that a Juvenile board may, without contravening article V, section 21 or article II, section 1 of the Texas Constitution, designate a juvenile probation department as the office with the authority to defer prosecution of a child referred to juvenile court for certain nonviolent misdemeanor offenses. Texas Attorney General Opinion No. GA-0205, 2004 WL 1380294 Tex.Ag.Lexis \_\_\_\_\_ (6/18/04).
  2. TFC 53.04(a)
  3. TFC 53.01 (a)
  4. TFC 53.01(d)
  5. TFC 53.035(c)
  6. TFC 53.035(e)
  7. CCP 12.01 (providing limits for felonies) & CCP 12.02 (providing limits for misdemeanors)
  8. TFC 53.04(a) & TFC 53.012 (requiring prompt review of cases referred to prosecutor pursuant to TFC 53.04(a)); see *In Re J.W.G.*, 988 S.W.2d 318 (Tex.App.--Houston [1<sup>st</sup> Dist.] 1999) (Holding delay of just over one year in proceeding to trial after juvenile was detained for offense of aggravated sexual assault of eight year-old girl was not unreasonable).
  9. TFC 54.01(p)
  10. TFC 53.05 (b); but see *L.L.S. v. State*, 565 S.W.2d 252, 255 (Tex.Civ.App.--Dallas 1978) where the court stated "we construe the statute as permitting a postponement in the court's discretion and on the court's own motion, so long as the postponement is not for such a long period as to be a denial of due process."
  11. *In the Matter of D.J.*, 909 S.W.2d 621 (Tex.App.--Fort Worth 1995, pet. dismissed W.O.J.)
  12. TFC 53.012
  13. TFC 53.04(c) (providing the petition may be on information and belief)
  14. TFC 51.06(a)
  15. TFC 53.04(b)
  16. *R.E.M. v. State*, 569 S.W.2d 613 (Tex.Civ.App.--Waco 1978, writ refused n.r.e.).
  17. *In re V.R.S.*, 512 S.W.2d 350 (Tex. Civ. App.--Amarillo 1974, no writ)
  18. TFC 53.04(c)
  19. *In the Matter of H.S., Jr.*, 564 S.W.2d 446 (Tex.Civ.App.--Amarillo 1974)
  20. TRCP, Rule 51(a)
  21. *Moore v. State*, 713 S.W.2d 766 (Tex.App.--Houston [14<sup>th</sup> Dist.] 1986)
  22. TFC 54.02(g)
  23. Consider TRE 403 & 404
  24. Texas Penal Code, §7.01(c); see *In the Matter of S.D.W.*, 811 S.W.2d 739 (Tex.App.--Houston [1<sup>st</sup> Dist.] 1991) (holding same rule applies to juvenile cases)
  25. *In the Matter of W.H.C., III*, 580 S.W.2d 606 (Tex.Civ.App.--Amarillo 1979)
  26. *In the Matter of C.F.*, 897 S.W.2d 464 (Tex.App.--El Paso 1995)
  27. *In the Matter of H.R.A.*, 790 S.W.2d 102, 105 (Tex.App.--Beaumont 1990)
  28. TFC 53.04(d)(5)

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29. *In the Matter of M.D.H.*, UNPUBLISHED, No. 2-03-112-CV, 2003 WL 22966268, 2003 Tex.App.Lexis—(Tex.App.Lexis\_\_ (Tex.App.-Fort Worth 12/18/03)
  30. *In the Matter of B.P.C.*, UNPUBLISHED, No. 03-03-00057-CV, 2004 WL 1171670, 2004 Tex.App.Lexis\_\_ (Tex.App.—Austin 5/27/04) (citing *Curry v. State*, 30 S.W.3d 394, 405 (Tex.Crim.App.2000)
  31. TFC 51.02(9)
  32. TFC 51.02(9)
  33. TFC 51.02(4)
  34. TFC 51.02 defines custodian as the adult with whom the child resides
  35. *M.E. v. State*, 616 S.W.2d 690 (Tex.Civ.App.--Waco 1981)
  36. TFC 53.04(e)
  37. TFC 54.04(c)
  38. TFC 54.04(c)
  39. TFC 54.048
  40. TFC 53.07(b)
  41. *In the Matter of Edwards*, 644 S.W.2d 815 (Tex.App.--Corpus Christi 1982, writ ref'd n.r.e.)
  42. *In the Matter of V.C.H.*, 605 S.W.2d 643 (Tex.Civ.App.--Houston [1<sup>st</sup> Dist.] 1980)
  43. Attorney General Opinion No. MW-298 (1981)
  44. In *K.M.P. v. State*, 701 S.W.2d 939 (Tex.App.--Fort Worth 1986)
  45. *In the Matter of R.M.R.*, No. 01-0100347-CV, 2001 WL1555304, 2001 Tex.App.Lexis 8099 (Tex.App.-Houston [1<sup>st</sup> Dist.] 2001)
  46. *In the Matter of C.E.H.*, 516 S.W.2d 25 (Tex.Civ.App.--Texarkana 1974)
  47. *Carner v. State*, 592 S.W.2d 618 (Tex.Crim.App. 1980)
  48. TFC 51.115(a)
  49. TFC 51.115(b)
  50. TFC 51.115 (c)
  51. TFC 51.115 (d)
  52. TFC 53.06(b)
  53. *R.A.G. v. State*, 870 S.W.2d 79 (Tex.App.--Dallas 1993)
  54. TFC 53.07(a)
  55. TFC 53.07(a)
  56. TFC 53.07(a)
  57. TFC 53.07(b)
  58. *In the Matter of Edwards*, 644 S.W.2d 815 (Tex.App.--Corpus Christ 1982, writ ref'd n.r.e.)
  59. *R.K.D. v. State*, UNPUBLISHED, No. 10-94-00527-CV, 1995 WL 2913 1995 Tex.App. Lexis 11.
  60. *In the Matter of M.A.*, UNPUBLISHED, No. 03-98-00682-CV, 1999 WL 977071, 1999 Tex.App.Lexis 8001, Juvenile Law Newsletter 99-4-24 (Tex.App.--Austin 1999)
  61. Id.



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62. *In the Matter of P.L.*, 130 S.W.3d 514 (Tex.App.—Dallas 2004)
  63. *In the Matter of K.P.S.*, 840 S.W.2d 706 (Tex.App.--Corpus Christi 1992)
  64. TFC 54.02 (b), TFC 54.02(k)
  65. TFC 54.02(b)
  66. *In re K.W.S.*, 521 S.W.2d 890 (Tex.Civ.App.--Beaumont 1975) (referencing TFC 51.09)
  67. *In the Matter of J.R.C.*, 551 S.W.2d 748 (Tex.Civ.App.█exarkana 1977, writ ref'd n.r.e.)
  68. *Johnson v. State*, 594 S.W.2d 83 (Tex.Crim.App. 1980)
  69. *Hardesty v. State*, 659 S.W.2d 823 (Tex.Crim.App. 1983)
  70. CCP 44.47
  71. TFC 54.02(k)
  72. TFC 54.02(m) (the rule is, once transferred, always transferred)
  73. TFC 54.02(n)
  74. Robert O. Dawson, *Texas Juvenile Law* 115 (5<sup>th</sup> ed. 2000)
  75. TFC 53.08
  76. TFC 54.07 (stating that any order of the juvenile court may be enforced by contempt).
  77. *In the Matter of T.T.W.*, 532 S.W.2d 418 (Tex.Civ. App.--Texarkana 1976)
  78. *In the Matter of M.W.*, 523 S.W.2d 513 (Tex.Civ.App.--El Paso 1975)
  74. *Light v. State*, 993 S.W.2d 740 (Tex.App.--Austin 1999), *vacated on other grounds*, 15 S.W.3d 104 (Tex.Crim.App. 2000)
  80. *Grayless v. State*, 567 S.W.2d 216 (Tex.Crim.App. 1978); *but see In the Matter of B.J.E.*, UNPUBLISHED, No. 03-00-00438-CV, 2001 WL 838409, 2001 Tex.App.Lexis 4967, *Juvenile Law Newsletter* █01-03-22 (Tex.App.--Austin 2001) (stating in *dictum* that a juvenile may not in an appeal from revocation of probation raise failure to serve him with the petition and summons for the adjudication hearing that led to the probation in question)
  81. *In the Matter of R.G.S.*, UNPUBLISHED, No. 05-97-01383, 1998 WL 136490, 1998 Tex.App.Lexis 1894, *Juvenile Law Newsletter* █98-2-10 (Tex.App.█allas 1998).
  82. *In the Matter of B.R.S.*, UNPUBLISHED, No. 03-00-00076-CV, 2000 WL 1228005, 2000 Tex.App.Lexis5871, *Juvenile Law Newsletter* █00-3-33 (Tex.App.--Austin 2000)
  83. *Light v. State*, 15 S.W.3d 104 (Tex.Crim.App. 2000)
  84. TFC 53.06(e)
  85. *In the Matter of W.L.C.*, 562 S.W.2d 454 (Tex. 1978)
  86. *In the Matter of M.E.B.*, UNPUBLISHED, No. 01-95-01534-CV, 1997 WL 103746, 1997 Tex.App.Lexis 1208, *Juvenile Law Newsletter* █97-2-03 (Tex.App.--Houston [1<sup>st</sup> Dist.] 1997)
  87. *Gibson v. State*, UNPUBLISHED, No. 09-98-260-CR, 1999 WL 1043971, 1999 Tex.App.Lexis 8707, *Juvenile Law Newsletter* █99-4-33 (Tex.App.--Beaumont 1999)
  88. *In the Matter of M.D.R.*, No. 06-02-00124-CV, 2003 WL 21692654 (Tex.App.-Texarkana 2003)
  89. *In the Matter of B.Y.*, 585 S.W.2d 349 (Tex.Civ.App.--El Paso 1979)
  90. *B.R.D. v. State*, 575 S.W.2d 126 (Tex.Civ.App.--Corpus Christi 1978, writ denied n.r.e.)
  91. *R.X.F. v. State*, 921 S.W.2d 888 (Tex.App.--Waco 1996)
  92. *Grayless v. State*, 567 S.W.2d 216 (Tex.Crim.App. 1978)

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93. TFC 53.07(a)

94. TFC 53.07(c)

95. TRCP, Rule 103

96. *P.C. v. State*, 616 S.W.2d 635 (Tex.Civ.App.--San Antonio 1981, writ ref'd n.r.e.); see *In the Matter of D.B.C.*, 695 S.W.2d 248 (Tex.App.--Austin 1985) (essentially holding that the requirement of Rule 103 that a person other than a sheriff or constable may serve process by written order of the court is inapplicable to service of juvenile process by a probation officer)