

Inter-County Transfer of Probation Supervision

Practical Issues and Scenario Analysis



2010

Regional Training

What is ICT?

ICT is a formal mechanism for transferring probation supervision and jurisdiction to another county.



Definitions

- **Sending County (SC)**
- **Receiving County (RC)**
- **Interim Supervision (IS)**
- **Permanent Supervision (PS)**
- **Inter-County Transfer Officer (ICT)**



Sections 51.072 – 51.075; 61.0031
Inter-County Transfers



The Six Basic ICT Steps. . .

1. A CHILD on probation MOVES to another county;
2. SC NOTIFIES RC about the child's move;
3. RC ACCEPTS child's case (unless basis to refuse);
4. SC SENDS required DOCUMENTS to RC;
5. RC SUPERVISES the child for 180 days; and
6. Jurisdiction automatically TRANSFERS to RC after 180 days.



Snapshot of the Statute

Texas Family Code

- *Sec. 51.072 Interim Supervision*

Establishes working definitions, transfer eligibility, procedures for initiating IS, time frames, related duties and required documentation.



Snapshot of the Statute

Texas Family Code

- *Sec. 51.073 Permanent Supervision*

Outlines the procedural steps for finalizing PS jurisdictional transfer from SC to RC.



Snapshot of the Statute

Texas Family Code



- *Sec. 51.074 Deferred Prosecution*

Authorizes transfer of deferred prosecution cases for interim supervision with no conversion to permanent.

- *Sec. 51.075 Collaborative Supervision*

Contemplates a form of courtesy supervision under an agreement between adjacent counties regarding a child with sufficient contacts (i.e. school or work). The original county retains case.

Snapshot of the Statute

Texas Family Code

- *Sec. 61.0031 Transfer of Orders Affecting Parents & Other Eligible Persons*

Authorizes transfer of the parental order to the new county of residence. Requires notice and hearing in RC court to reiterate terms affecting a parent.



Sections 51.072 – 51.075

Q & A



Required Documentation

TFC 51.072(e) & (f)

Question

If the SC does not provide the case plan and social history, may the RC refuse IS?



Answer

- *The case plan, including a case plan review, and social history are required to finalize acceptance of IS. TFC 51.072 (f)(3) and (f)(9);*
- *To encourage compliance, RC should advise SC that incomplete packets may not be accepted;*
- *TAC standards address case plans, generally.*

Required Documentation

TFC 51.072(e) & (f)

Question

What if a residential case plan has been provided, but not the field case plan?



Answer

- IR VIII (A) links responsibility and time frames to the requirements in TAC 343.688; 343.690 and 341.38;
- Juveniles who are currently in residential placement arranged by the SC are not eligible for ICT.
- The case plan referred to in 51.072(e)(9), is actually the field supervision case plan.

Directive to Resume

TFC 51.072 (i) and (j)

Question

When the RC returns a case via a DTR and the SC sends a subsequent request for IS, does the 180-day IS clock reset?



Answer

- *Technically, there is no “reset” of the IS clock after the DTR has been issued. The case permanently returns to the SC.*
- *The SC (w/ jurisdiction) should modify and continue to supervise the child.*
- *Original intent was to avoid "bouncing" the child back and forth between counties each time an IS child committed a subsequent offense. What about continuity of supervision?*

Directive to Resume

TFC 51.072 (i) and (j)

Question

When the RC returns a case via a DTR and the SC sends a subsequent request for IS, does the 180-day IS clock reset?



Possible Solutions

- *SC can resume supervision as provided in the statute.*
- *Arrange for early transfer to PS, so that the RC will have jurisdiction to assist the child.*
- *SC can make the decision to close the case out, but should take into consideration the severity of the current offense and child's history.*

ICT and the DNA Sample

TFC 54.0409

Question

Who is responsible for collecting DNA, when the original county ordered it as a condition of probation?



Answer

- *Sec. 54.0409 requires DNA for certain felony offenders. (81st Leg.)*
- *The county (SC) that originally disposed should, if possible, collect the DNA sample prior to transfer.*
- *Both SC and RC should work together to ensure that a sample has been obtained in accordance with the law.*
- *The ordering court is required to assess and collect DNA fee. The fee should be sent to DPS.*

Determinate Supervision Probation & ICT

TFC 51.072(n)

Question

Which county, SC or RC, is responsible for conducting the hearing for the Transfer of DSP to the District Ct. if the child is still on DSP-IS?



Answer

- *DS-Interim Supervision expires when the child has completed the greater of 180 days or 1/3 of the term of probation.*
- *DSP Transfer to District Ct. must occur prior to the juvenile's 18th birthday.*
- *The county that has jurisdiction should be the county that entertains the hearing under TFC 54.051.*

PS Transfer Orders & Clerk of Court Issues

TFC 51.073

Question

Should the PS Transfer Orders and other pleadings from the SC be certified copies?

Answer

- *Comply with RC local practices since the statute does not require the orders to be certified.*
- *The clerk is the custodian of records and may charge \$1+ per page.*
- *This is an issue of expense or may be raised if the validity of the order is in question.*



PS Transfer Orders & Clerk of Court Issues

TFC 51.073 (b)

Question

Should we use the SC's cause number or create a new one in the RC?

Answer

- *This depends on the requirements and practice of the RC clerk... typically, the SC's cause number may be used during IS.*
- *After PS, a new cause number in the RC should be assigned.*



Fees & Financial Responsibility

TFC 51.072(k) & (l)

Question

Which county, SC or RC, should collect restitution payments?

What about mental health and substance abuse treatment costs during IS?



Answer

- *RC collects and keeps probation supervision fees during IS.*
- *RC collects and distributes restitution payments during IS*
- *SC is financially responsible for special treatment programs or placements that SC requires as a condition of probation if the family is unable to pay.*

Fees & Financial Responsibility

TFC 51.072(k) & (l)

Question

Which county is responsible for the collection of court costs and attorney's fees?



Answer

- *Unlike restitution, court costs and attorneys fees have not been addressed in statute.*
- *RC should keep the probation supervision fees and transmit court costs and attorneys fees to the SC for proper disbursement.*
- *What other approaches or legislative fixes do you recommend?*

Fees & Financial Responsibility

TFC 51.072(k) & (l)

Question

Are there any other duties regarding victim restitution?



Answer

- *RC is required to collect and distribute victim restitution payments as specified by the SC.*
- *After PS, RC is responsible for distributing \$ to victim.*
- *Also, RC must process unclaimed victim restitution under TFC 54.0581.*
- *Describe any restitution accounting issues.*

Collaborative Supervision

TFC 51.075

Question

Does TJPC monitor collaborative supervision and ICT files?

Answer

- *No, TJPC administrative standards do not contain specific provisions relating to inter-county transfer.*
- *JPDs may develop local collaborative supervision agreements.*
- *Elements of the agreement and criteria are outlined in IR XV(D).*



Sections 51.072 – 51.075
Follow-Up Questions?



Sections 51.072 – 51.075
Composite Scenarios



Scenario 1



- A child was adjudicated in West Texas (SC) and is placed on IS in East Texas (RC). At the beginning of IS, the child has multiple positive UA tests. Seven days prior to the expiration of 180-days, the RC issues a DT Resume based on the “old” UA tests.
 - Can the RC do this?
 - What are the consequences, legal and otherwise?
 - How can this situation be resolved?

Scenario 2



- A child is placed in an out-of-county facility by a parent (not as a condition of probation). SC sends an ICT request to the county where the child is in placement.
 - Can the RC deny IS on the basis that this is a placement in the SC?
 - Does it make a difference that the parent arranged placement?
 - How can this situation be resolved?

Scenario 3



- The same child (Scen. 2) is placed in an out-of-county facility by his parent (not as a condition of probation). Later, the mother disappears and CPS is now involved. SC sends an ICT request to the county where the child is in placement.
 - Can the child continue under IS in the RC?
 - Does it make a difference that the placement was not arranged by the SC or JPD?
 - How can this situation be resolved?

Scenario 4



- The ICT officer in the RC accepts IS, but is having difficulty with the SC in determining which date should be the “IS starting date”. The RC thinks it should be the first face-to-face since it will be impossible to get the child into the office within 3 days of IS acceptance.
 - What does the statute say about the starting date for IS?
 - How can this situation be resolved?

Scenario 5



- SC requests ICT for a child who is in CPS placement in the RC. The RC believes that it is in the child's best interest to provide continuity of supervision.
 - Can the RC accept IS even if the statute establishes CPS placement as a basis for denial?
 - How can this situation be handled?

Scenario 6



- A child is placed on probation in the SC. Mom is ordered by the SC court to pay \$10,000 in restitution. The child moves to the RC to live with grandma and is placed on IS.
 - What happens to the parental restitution order when the case becomes PS in the RC?
 - What process is outlined in the Family Code to transfer orders affecting parents and others?

Scenario 7



- After 180 days of cooperation between the SC and RC, the Order to Transfer PS has been received from the SC, but RC judge refuses to sign the Agreed PS Order.
 - Even though the case becomes PS by operation of law, the refusal of the judge makes it impossible to fulfill the obligations under TFC 51.073. If the judge won't sign the order, has jurisdiction transferred to the RC? What if the child violates during the time PS is in limbo?
 - Is there a legislative or policy fix for this recurring problem?

Scenario 8



- An adjudicating court ordered out-of-county placement for a child in a distant county.
 - How should continuity of supervision be maintained if the child is not eligible for ICT?
 - Is there a process outlined in the TJPC standards to address this situation?

Scenario 9



- A child moves to the RC with her mom and SC requests a transfer. SC is concerned because the home in RC has domestic violence issues and (although CPS is not involved) the move is not really in the child's best interest. The SC does not want to ICT the child to an unstable home.
 - The statute requires the transfer of the child, but should the SC have other options in this case?
 - Should the law give the SC additional criteria to determine whether ICT is appropriate? What about additional criteria for refusal?

Related Materials

- **ICT Packet**
 - Overview and implementation recommendations
 - Sample Emails
 - Sample Forms
 - Sample Court Pleadings
- **Download at Commission Website**
 - www.tjpc.state.tx.us



Read More About It...

Chapter 27, 7th Ed. – Texas Juvenile Law

*JLS Special Legislative Issue
Juve. L. Sect. Rpt.*

*Juvenile Law Section, State Bar of Texas
www.juvenilelaw.org*

*Texas Juvenile Probation Commission
www.tjpc.state.tx.us – Publications/ICT Forms*



Thank You Nydia Thomas
for the beautiful and informative slide presentation.

To contact the presenter:

Leigh de la Reza

512 East 11th Street, Suite 202

Austin, Texas 78701

512-301-0274