


**Office of the General Counsel**

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**LEGAL EDUCATION & TECHNICAL ASSISTANCE (LETA)**



TEXAS  
**JUVENILE JUSTICE**  
TRANSFORMING YOUNG LIVES AND CREATING SAFER COMMUNITIES DEPARTMENT

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**Who we are...**

**JILL MATA**  
*General Counsel*

LEGAL EDUCATION & TECHNICAL ASSISTANCE

**Nydia Thomas**  
*Special Counsel*

**Kaci Singer**  
*Staff Attorney and Policy Supervisor*

**Jenna Reblin**  
*Staff Attorney*

**Scott Friedman**  
*Technical Assistant / Policy Specialist*

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**MEET YOUR LETA TEAM**



**Nydia Thomas**

**Kaci Singer**



**Jenna Reblin**



**Scott Friedman**

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## WHAT WE DO...

- ◉ Provide legal and technical assistance to a range of juvenile justice stakeholders.
- ◉ Conduct legal research needed to provide juvenile law-related resource information.
- ◉ Fulfill the TJJJ training mandate and promote compliance with statutory laws and administrative standards.
- ◉ Publish legislative commentary reports, statutory implementation guides, brochures and other juvenile law-related materials.

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## HOW TO CONTACT THE HELP DESK

The Legal Help Desk is available to local juvenile probation departments to provide juvenile law information and technical assistance.

Email Address  
legalhelp@tjjd.texas.gov

\*\*\* PREFER EMAIL \*\*\*

Telephone Number

512-490-7121

**\*leave a message if you call\***



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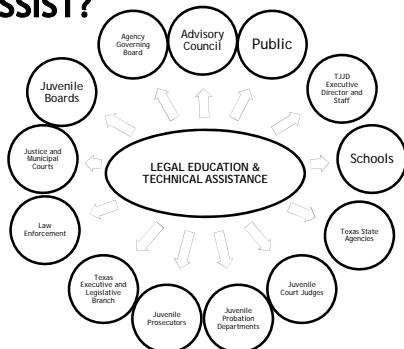
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## WHO DOES THE HELP DESK ASSIST?



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**TECHNICAL ASSISTANCE VS. LEGAL ADVICE**  
**A SUBTLE DISTINCTION...**

▪ **TECHNICAL ASSISTANCE:**

- General resource info on how to enhance juvenile programs and services as set out in statutes and agency administrative rules.
- LHD assistance is not “legal counsel or representation.” Review all info with your local prosecutor or department legal counsel.
- LHD information is not an authoritative administrative or legal opinion.

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**TECHNICAL ASSISTANCE VS. LEGAL ADVICE**  
**A SUBTLE DISTINCTION...**

▪ **LEGAL ADVICE:**

- Written or oral statement that recommends a specific course of action for a specific set of facts.
- *For example, “What to do” rather than “how to do”.*
- LHD will be helpful but we will be cautious not to cross the line.

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**TJJD ATTORNEYS**  
**ETHICAL CONSTRAINTS**

**Texas Disciplinary Rules of Professional Conduct**



- Cannot provide assistance outside the normal field of juvenile justice;
- Cannot encourage unauthorized practice of law (UPL);
- Will make it clear that responses should be presented to local counsel to assist in resolving the question;
- Can rely only on the information presented to formulate responses;
- May indicate that many issues may involve factors other than strictly legal considerations.

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## LHD DISCLAIMER

Attorneys include a disclaimer on emails and correspondence.

**The information provided is not intended as legal advice and no attorney-client relationship is created...**

*The Texas Juvenile Justice Department Office of the General Counsel prepares emails and legal memoranda in response to requests for technical assistance from juvenile justice practitioners and members of the public. The information provided is not intended as legal advice and no attorney-client relationship is created. Instead, responses are based on a compilation of relevant statutes and case law that may apply generally to the questions or facts presented. Parties in litigation or desiring to litigate are advised to seek independent counsel. Other persons with whom this email or memorandum may be shared are cautioned that while the information may be of general assistance, it may not be responsive to a similar fact situation. If upon reading this email or memorandum you still have questions, please contact this office for clarification or discuss the matter with your local prosecutor or private legal counsel.*

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## HELP DESK TIPS

### What we can't do...

- Discuss specific departmental disputes, employment matters or local political issues.
- Engage in *ex parte* discussions relating to a TJJD proceeding or investigation.
- Perform specific legal research projects on behalf of a juvenile probation department.

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## HELP DESK TIPS

### Contact OGC or TJJD staff when...

The Office of the General Counsel (OGC) or other TJJD staff should be contacted on matters involving (EXAMPLES) :

- Standards & Policy
- ANE Reporting (AID)
- Caseworker/JCMS ( CWHD)
- Discipline or Complaints
- State Financial Assistance
- Certification (Cert Officer)
- Public Information (PIO)

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## HELP DESK TIPS

### Avoid Forum Shopping

- Let us know whether you have spoken with other staff on the **SAME QUESTION**.
- We can work together to assist you.
- Help us save time and avoid duplicating our efforts.

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## RESOURCE INFORMATION

### KEEPING UP WITH JUVENILE JUSTICE

Texas Legislature Online  
www.legis.state.tx.us

Information available --

- Bill Status
- Member Information
- Press Releases
- Live Internet Committee Hearings
- Agendas and Witness Lists
- Fiscal Notes
- Alerts



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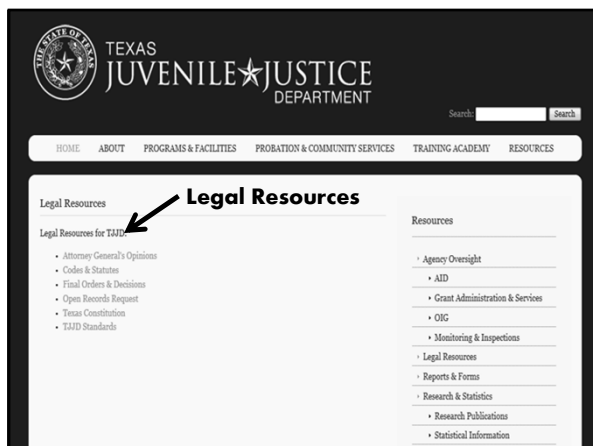
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**I'LL TAKE FREQUENTLY ASKED QUESTIONS FOR TWO**

Detention Hearings	Certification	Determinate Sentencing
<b>HB 1204</b>	<b>OTHER</b>	Justice to Schools
<b>ICT</b>	<b>58.001(c)</b>	Deferred Prosecution

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**I'LL TAKE DETENTION HEARINGS FOR 54.01**

**DETENTION HEARINGS**

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## DETENTION HEARINGS

### QUESTION:

If a juvenile is taken into custody on a Thursday, when do we have to have the initial detention hearing?

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## DETENTION HEARINGS

### ANSWER:

- Family Code 54.01(a)- 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;
- HOWEVER- Rules of Judicial Administration **Rule 6.1(c)(1)** Detention hearings. **On the next business day following admission to any detention facility.**
- BUT – **Rule 6.1(d)** states: It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

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## DETENTION HEARINGS

### QUESTION:

What if there was an initial detention hearing and detention order and the child then has to go to the hospital? Can there be a medical furlough/leave?

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## DETENTION HEARINGS

### ANSWER:

- **Family Code 52.02-** when a child is taken into custody and detained, one of the places they may be taken to a hospital
- **Family Code 51.20(e)-** the court can order a physical exam.
- Order of Detention good for 10 days (or 15 for some counties)

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## I'LL TAKE CERTIFICATIONS FOR 54.02

CERTIFICATION  
aka  
Waiver of Jurisdiction and Discretionary  
Transfer to Criminal Court

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## CERTIFICATION

### QUESTION:

Respondent is 20 years old now, but committed aggravated sex assault of a child when 15 years old. **Where** can the Respondent be detained?

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## CERTIFICATION

**ANSWER:**

- Certification procedures are found under **Family Code 54.02**.
- **IF** the juvenile is over 18 years old, then **Family Code 54.02 sections (o-r)** discuss taking the juvenile into custody and detention.

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## CERTIFICATION

**QUESTION:**

Does a respondent who is 18 years or older have a right to a detention hearing if detained **BEFORE** certification?

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## CERTIFICATION

**ANSWER:**

- Yes.
- Before the transfer hearing, Family Code **54.02 (o)**, if a Respondent over 18 years old is taken into custody for possible transfer hearing the ***juvenile court shall hold a detention hearing in the same manner under 54.01***, except that it applies to adults.

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**CERTIFICATION**

**QUESTION:**

Does the juvenile have a right to a detention hearing if he or she is detained after the certification hearing?

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**CERTIFICATION**

**ANSWER:**

- **54.02(h)** .... 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
- **54.02(h-1)** ...the juvenile court shall set or deny bond for the person as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

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**I'LL TAKE DETERMINATE SENTENCE  
FOR 54.04(D)(3)**

**DETERMINATE  
SENTENCE**

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**DETERMINATE SENTENCE  
PROBATION**

**Question:**

Can a respondent on determinate sentence probation that is 18 years old be detained at the juvenile detention facility?

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**DETERMINATE SENTENCE  
PROBATION**

**Answer:**

- YES. If detention is being sought in the response to the determinate sentence probation violation, **the current law does not permit placement in the county jail because there is no criminal offense upon which to base the detention.**
- Determinate sentence probation = under the jurisdiction of the JUVENILE COURT until 19<sup>th</sup> birthday

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**DETERMINATE SENTENCE  
PROBATION**

**Question:**

Can a juvenile on determinate sentence probation be transferred to adult criminal court before their 19<sup>th</sup> birthday?

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**DETERMINE SENTENCE  
PROBATION**

**Answer:**

- No
- Family Code 54.051

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**I'LL TAKE HB 1204 FOR 53.011**

**HB 1204**

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**HB 1204**

**QUESTIONS:**

**What if a juvenile has already started services with their local CRCG and moves?  
What about interim supervision for HB 1204 referrals?**

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**HB 1204**

**ANSWER:**

- ICT provisions apply to a juvenile on probation who changes residence after adjudication and disposition.

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**HB 1204**

**QUESTION:**

In the 90 days the youth is under the CRCG plan, can a probation department also place the child on deferred prosecution to run concurrent?

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**HB 1204**

**ANSWER:**

- Intent of legislation are services offered to qualifying young offenders before deferred prosecution, not for the services to run concurrently.

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**I'LL TAKE EFFECT OF  
ADJUDICATION/DISPOSITION FOR  
51.13**

**EFFECT OF  
ADJUDICATION /  
DISPOSITION**

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**EFFECT OF  
ADJUDICATION/DISPOSITION**

**Question:**

How are the adult rights of a juvenile who adjudicated and found true to have engaged in delinquent conduct at disposition effected?

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**EFFECT OF  
ADJUDICATION/DISPOSITION**

**ANSWER:**

- Family Code Section 51.13
- Exceptions under 51.13 (d) & 51.13(e)

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**I'LL TAKE CODE OF CRIMINAL  
PROCEDURE 15.27**

**NOTICE TO  
SCHOOLS**

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**NOTICE TO SCHOOLS**

**Question:**

**What and when is information about a juvenile offense required to be shared with the school district by probation?**

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**NOTICE TO SCHOOLS**

**ANSWER:**

- **Code of Criminal Procedure Article 15.27** outlines the notice to school requirements.
  - Section (a) are procedures for the law enforcement agency that arrests the child
  - Section (b) is for prosecutors
  - Section (c) is for probation officers and departments
- There is an Attorney General's Opinion No. DM-294 that further discusses what information may be shared under these circumstances.

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**I'LL TAKE ICT FOR 51.072 & 51.073**

**INTER COUNTY  
TRANSFER INTERIM  
& PERMANENT**

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**INTER COUNTY TRANSFER**

**QUESTION:**

Does the 180 days for inter county transfer interim supervision start over after there has been a directive to resume and the sending county sends a juvenile back to the receiving county after modifying probation conditions?

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**INTER COUNTY TRANSFER**

**ANSWER:**

- No.
- **Family Code 51.072 (j-1 & j-2)**Inter County Transfer
- **Family Code 51.072 (m)** ...A period of interim supervision may not exceed 180 days.

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## INTER COUNTY TRANSFER

**Question:**

If juvenile goes to receiving county as interim supervision and then later supervision is transferred to permanent supervision, what is the procedure if the sending or receiving county receives notice from DPS to seal?

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## INTER COUNTY TRANSFER

**Answer:**

- The county that receives the DPS notification and processes the sealing order should list the other county as an entity to receive notice that a sealing order has been entered for an eligible juvenile.

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**I'LL TAKE 58.001(C) FOR ...  
58.001(C)**

**FAMILY CODE  
58.001(C)**

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**FAMILY CODE 58.001(C)**

**Question:**

**What if law enforcement does not refer to probation within 10 days after a child is taken into custody?**

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**FAMILY CODE 58.001(C)**

**ANSWER:**

- Work with your prosecutor & LEA to see what best option is if they are unable to refer within 10 day request.
- Not a free pass for the alleged delinquent conduct or conduct indicating a need of supervision

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**FAMILY CODE 58.001(C)**

**Question:**

**Are the 10 days that law enforcement is required to refer the juvenile to the probation department 10 calendar days or 10 working days ?**

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**FAMILY CODE 58.001(C)**

**ANSWER:**

- How to calculate if working or calendar not specified in statute:
  - **Government Code Sec. 311.014. COMPUTATION OF TIME.**
    - (a) In computing a period of days, the first day is excluded and the last day is included.
    - (b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

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**I'LL TAKE DEFERRED PROSECUTION FOR 53.03**

**DEFERRED PROSECUTION**

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**DEFERRED PROSECUTION**

**Question:**

**Can a juvenile who violated their deferred prosecution conditions be taken into custody by a directive to apprehend?**

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## DEFERRED PROSECUTION

**ANSWER:**

- Yes
- **Family Code 53.03(b)-** Except as otherwise permitted by this title, the child may not be detained during or as a result of the deferred prosecution process.

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## MOST FREQUENTLY ASKED

1. Detention of determinate sentence & certification respondents over 17 years old
2. Records/Sealing

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**In case you forgot to write it down...**

Email:  
[legalhelp@tjjd.texas.gov](mailto:legalhelp@tjjd.texas.gov)



Phone:  
512-490-7121



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**IF YOU WANT TO CONTACT ME...**

**Jenna Reblin, J.D.**

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Staff Attorney  
TJJJ Office of the General Counsel  
Legal Education and Technical Assistance

EMAIL: [jenna.reblin@tjjd.texas.gov](mailto:jenna.reblin@tjjd.texas.gov)  
Phone: 512-490-7619



THE END

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