

# Juvenile Scripts

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## SCRIPT FOR DETENTION HEARING

If the juvenile's parent or guardian is not present, appoint the juvenile's attorney as the guardian in addition to serving as the juvenile's attorney.

The hearing need not be recorded unless the juvenile's attorney so requests.

Ask both the juvenile and the parent or guardian of the juvenile:

**“Did you receive notice of this hearing?”**

Address the following to the juvenile:

**“This is a detention hearing, and the only issue is whether you should be detained for a period not to exceed ten working days or released to suitable adult supervision upon that adult's promise to return you to court if that becomes necessary.”**

**“You have the right to be represented by an attorney.”**

If the juvenile has not had an attorney appointed at the time of arrest under your county standing order, advise of right to counsel.

**“You have the right to be represented by an attorney at this proceeding. If you and your family are indigent, an attorney will be appointed to represent you.”**

Then ask the parent or guardian and the juvenile if they believe they are indigent and proceed with the appointment under the rules established in your county standing order.

**“You have the right to remain silent and not make any statement that might incriminate you with respect to any of the charges of delinquent conduct or conduct indicating a need for supervision.”**

**“Because this is a detention hearing, nothing you say can be used against you in any future hearing. However, any statement you make could be used to determine whether or not to detain you.”**

The probable cause issue should be covered in the magistrate’s warning and admonishments done at the time of arrest, unless the

juvenile was apprehended by a probation officer. Review the file to determine if the magistrate at arrest made a probable cause finding.

If no probable cause determination has been made, determine now whether probable cause exists that the child committed the offense(s) for which the juvenile was arrested. If no probable cause exists, release the child immediately.

If probable cause exists, make such a finding and proceed with the merits of the detention hearing.

Ask each side for its position, and hear evidence, if necessary.

The juvenile may be detained only if the court finds that one of the following reasons exist:

- \* the juvenile is likely to abscond or be removed from the jurisdiction of the court;
- \* there is no suitable adult supervision to whom to release the juvenile;
- \* there is no parent, guardian, or other suitable adult person to whom the juvenile could be released upon the adult's promise to return the juvenile to court if charges are filed;

- \* the juvenile may be dangerous to self or may threaten the safety of the public if released; or

- \* the juvenile has previously been declared delinquent or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit another offense if released.

If the juvenile is released:

- \* the release may be predicated upon written requirements reasonably necessary to insure the juvenile's appearance at a later hearing; and

- \* the judge should provide the juvenile and the adult with a copy of the written conditions of release.

If the juvenile is detained:

- \* the order of detention may not exceed ten working days;

- \* the order of detention must be in writing, must be signed and must be filed;

- \* the detention order extends to the conclusion of the disposition hearing, if one has been set by the court;

\* the initial detention hearing may not be waived. In no event shall the initial detention order extend beyond ten working days;

\* subsequent detention hearings may be waived in accordance with Family Code Sec. 51.09. Each subsequent detention order may not extend for more than ten working days, except that in a county that does not have a certified juvenile detention facility, each subsequent detention order shall extend for no more than fifteen working days.

**SCRIPT FOR AN ADJUDICATION HEARING IN**  
**WHICH THE RESPONDENT PLEADS TRUE**

**“This is cause number \_\_\_\_\_, in the matter of \_\_\_\_\_.”**

Ask both the juvenile and the parent or guardian of the juvenile:

**“Did you receive notice of this hearing?”**

Then ask:

**“Is the State ready to proceed?”**

**“Are the juvenile and the juvenile’s attorney ready to proceed?”**

**“Is the juvenile here today the same juvenile named in the petition, \_\_\_\_\_ (state the name of juvenile as stated in the petition)?”**

**“Are the age and date of birth of the juvenile correctly stated in the petition?”**

**“I find that the juvenile is a child within the meaning of the Texas Family Code.”**

Inform the juvenile:

**“This cause is presented to the court by petition brought by the County/ District Attorney of \_\_\_\_\_ County. That petition contains allegations that you have committed acts, which if committed by an adult, would be criminal under the Texas Penal Code. The allegations are:”**

Read the allegations contained in the petition. No plea to the allegations is taken at this time.

Based upon the allegations contained in the petition on file, select the warnings and instructions to be delivered to the juvenile. If the petition alleges acts that would only result in a finding of conduct indicating a need for supervision, there is no reason to admonish on delinquent conduct. Make your admonition case-specific.

**“If you are found to be a child in need of supervision, you could be placed on probation either in your home or outside your home.”**



**“If you are found to be a child who has engaged in delinquent conduct based on any felony grade penal law, you could be placed at the Texas Juvenile Justice Department with possibility of removal, or if you are found to have engaged in delinquent conduct based on any violation of a penal law of the grade of Class A or Class B misdemeanor or any felony grade penal law, you could be placed on probation either in your home or outside your home.”**

**“If you are found to have engaged in delinquent conduct alleged in a petition approved by a grand jury that includes one of the following offenses, you may be sentenced to commitment in the Texas Juvenile Justice Department with a possible transfer to the Texas Department of Criminal Justice for a maximum term of forty years:**

- \* murder;**
- \* capital murder;**
- \* manslaughter**
- \* aggravated kidnapping;**

- \* sexual assault or aggravated sexual assault;**
- \* aggravated robbery;**
- \* aggravated assault;**
- \* injury to a child, elderly individual, or disabled individual;**
- \* deadly conduct (discharging firearm at persons or certain objects);**
- \* an offense that is a felony of the first degree or an aggravated controlled substance felony;**
- \* criminal solicitation;**
- \* indecency with a child;**
- \* criminal solicitation of a minor;**
- \* arson (if bodily injury or death resulted);**
- \* intoxication manslaughter;**

**\* criminal conspiracy to commit any of the above offenses; or**

**\* criminal attempt to commit:**

**\* murder;**

**\* capital murder;**

**\* indecency with a child;**

**\* aggravated kidnapping;**

**\* aggravated sexual assault; or**

**\* aggravated robbery;**

**\* manufacture or delivery of controlled substances in a drug-free zone or by using a child in commission of the offense;**

**\* sexual assault;**

**\* injury to a child (if punishable as a first-degree felony);**

- \* sexual performance by a child;
- \* compelling prostitution; or
- \* trafficking of persons.”

“You have a privilege against self-incrimination, which means that you have a right to remain silent and not make any statement that might incriminate you.”

“You have the right to a jury trial on the matter of adjudication, including the right to confront witnesses who might testify against you and the right to call witnesses to court to testify on your behalf. You may waive your right to a jury trial.”

“You have a right to be represented by an attorney.”

“You have the right to two days notice of the matters contained in the State’s petition, including any trial amendments, and your attorney has a right to ten days notice.”

Inform the parties of the following, if applicable:

**“Juvenile court adjudications based on violations of felony grade laws are admissible in a subsequent criminal proceeding as evidence in the punishment phase of the trial. Therefore, a juvenile court adjudication based on violations of felony grade laws will give you a record that could follow you for a lifetime.”**

**“If there is a declaration of delinquency on a human trafficking offense or a drug offense, such as the sale, delivery, manufacture, distribution, or possession of a controlled substance, state law requires that you lose your driver’s license or the right to obtain a driver’s license if you do not currently have a driver’s license. The period of loss for the first drug offense will be 365 days or until your 19th birthday, whichever is longer. For the second drug offense (if the violation was from the ingestion of a controlled substance or was a felony grade penal law violation of the Controlled Substances Act) the suspension is indefinite until you complete a drug abuse course approved by Texas Dept. of State Health Services, Substance Abuse Division. After the completion of the course, the suspension runs for an additional 180 days.”**

Ask the juvenile:

**“Do you understand the above rights and explanations?”**

If the juvenile says yes:

(Prior to advising the juvenile of his right to waive any of the rights he has in court, ask counsel if a written waiver of any of these rights has been filed or will be filed with the court. If the attorney intends to advise the juvenile to waive any rights, you should have a written waiver filed. That waiver must be signed by the juvenile, the attorney and the parents or responsible adult for the juvenile. Do not rely on oral waivers of these rights. You may proceed with the following script, however secure the written waiver before any ruling is made.)

Ask the juvenile the following:

**“Do you waive the right to a trial by jury?”**

**“Do you waive the right to remain silent?”**

**“Do you waive the right to confront the state’s witnesses and to bring witnesses favorable to your defense?”**

If necessary, include the following in the waivers:

**“Do you agree to all trial amendments, and do you waive your right to two days notice?”**

If the juvenile says yes, proceed with the following:

Ask the juvenile’s attorney:

**“Do you understand the above rights and explanations?”**

**“Do you join your client in the waiving the above rights?”**

If necessary, include the following:

**“Do you agree to all trial amendments, and do you waive your right to ten days notice?”**

Swear witnesses and parties:

**“Do each of you solemnly swear or affirm that the testimony you will give in the cause now on trial before the court will be the truth, the whole truth, and nothing but the truth?”**

Have witnesses and parties state their full legal names for the record.

Read the entire allegation to the juvenile and ask the juvenile:

**“Do you understand the offense for which you stand charged?”**

Ask the juvenile the following:

**“How do you plead to the charges brought against you: true or not true?”**

NOTE: Repeat the previous question for each allegation when more than one charge appears in the petition.

Allow any stipulations of evidence to be admitted.

If the juvenile admits “TRUE,” pronounce the following:

**“The Court accepts Respondent’s plea of true.”**

**“Does the State rest?”**

**“Does the Respondent rest?”**

**“Based on the pleadings on file, the record, which reflects that the juvenile is properly before the court, the plea of**



**“true,” and a finding of true, the juvenile is hereby found to be a child who has engaged in delinquent conduct/a child in need of supervision.”**

**“\_\_\_\_\_ [name of parent or guardian] and \_\_\_\_\_ [name of child], you are both advised that the child has the right to appeal, the right to have an attorney represent him/her in the appeal and he/she has the right to have an attorney appointed for purposes of an appeal if the child and his/her family are indigent.”**

**“Do you wish to give notice of appeal at this time?”**

**“The disposition hearing in this case will start immediately following the conclusion of this hearing on adjudication.”**

**or**

**“The disposition hearing in this case will be held in this courtroom at \_\_\_\_\_ o’clock AM or PM, on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_. All parties are ordered to be present at that time. No further notice will issue concerning the setting of this matter.”**

**“Court is adjourned.”**

**SCRIPT FOR AN ADJUDICATION HEARING IN**  
**WHICH THE RESPONDENT**  
**PLEADS NOT TRUE**

**“This is cause number \_\_\_\_\_, in the matter of  
\_\_\_\_\_.”**

Ask both the juvenile and the parent or guardian of the juvenile:

**“Did you receive notice of this hearing?”**

Then ask:

**“Is the State ready to proceed?”**

**“Are the juvenile and the juvenile’s attorney ready to  
proceed?”**

**“Is the juvenile here today the same juvenile named in the  
petition, \_\_\_\_\_ [state the name of juvenile as stated in the  
petition]?”**

**“Are the age and date of birth of the juvenile correctly stated in the petition?”**

**“I find that the juvenile is a child within the meaning of the Texas Family Code.”**

Inform the juvenile:

**“The allegation(s) against you are:”**

Recite the allegations as contained in the petition.

**“If you are found to be a child who has engaged in delinquent conduct based on any felony grade penal law, you could be placed at the Texas Juvenile Justice Department with possibility of removal, or if you are found to have engaged in delinquent conduct based on any violation of a penal law of the grade of Class A or Class B misdemeanor or any felony grade penal law, you could be placed on probation either in your home or outside your home.”**

**“If you are found to be a child in need of supervision, you could be placed on probation either in your home or outside your home.”**

**“If you are found to have engaged in delinquent conduct alleged in a petition approved by a grand jury that includes one of the following offenses, you may be sentenced to commitment in the Texas Juvenile Justice Department with a possible transfer to the Texas Department of Criminal Justice for a maximum term of forty years:**

- \* murder;**
- \* capital murder;**
- \* manslaughter**
- \* aggravated kidnapping;**
- \* sexual assault or aggravated sexual assault;**
- \* aggravated robbery;**
- \* aggravated assault;**

- \* injury to a child, elderly individual, or disabled individual;**
- \* deadly conduct (discharging firearm at persons or certain objects);**
- \* an offense that is a felony of the first degree or an aggravated controlled substance felony;**
- \* criminal solicitation;**
- \* indecency with a child;**
- \* criminal solicitation of a minor;**
- \* arson (if bodily injury or death resulted);**
- \* intoxication manslaughter;**
- \* criminal conspiracy to commit any of the above offenses; or**
- \* criminal attempt to commit:**
  - murder;**

- capital murder;
- indecency with a child;
- aggravated kidnapping;
- aggravated sexual assault; or
- aggravated robbery;
- manufacture or delivery of controlled substances in a drug-free zone or by using a child in commission of the offense;
- sexual assault;
- injury to a child (if punishable as a first-degree felony);
- sexual performance by a child;
- compelling prostitution; or
- trafficking of persons.”

**“You have a privilege against self-incrimination, which means that you have a right to remain silent and not make any statement that might incriminate you.”**

**“You have the right to a jury trial on the matter of adjudication, including the right to confront witnesses who might testify against you and the right to call witnesses to court to testify on your behalf. You may waive your right to a jury trial.”**

**“You have a right to be represented by an attorney.”**

**“You have the right to two days notice of the matters contained in the State’s petition, including any trial amendments, and your attorney has a right to ten days notice.”**

Inform the parties of the following, if applicable:

**“Juvenile court adjudications based on violations of felony grade laws are admissible in a subsequent criminal proceeding as evidence in the punishment phase of the trial. Therefore, a juvenile court adjudication based on**



**violations of felony grade laws will give you a record that could follow you for a lifetime.”**

**“If there is a declaration of delinquency on a human trafficking offense or a drug offense, such as the sale, delivery, manufacture, distribution, or possession of a controlled substance, state law requires that you lose a driver’s license or the right to obtain a driver’s license if you do not currently have a driver’s license. The period of loss for the first drug offense will be 365 days or until your 19th birthday, whichever is longer. For the second drug offense (if the violation was from the ingestion of a controlled substance or was a felony grade penal law violation of the Controlled Substances Act) the suspension is indefinite until you complete a drug abuse course approved by Texas Dept. of State Health Services, Substance Abuse Division. After the completion of the course, the suspension runs for an additional 180 days.”**

Swear witnesses and parties:

**“Do each of you solemnly swear or affirm that the testimony you will give in the cause now on trial before the**

**court will be the truth, the whole truth, and nothing but the truth, so help you God?”**

Have witnesses and parties state their full legal names for the record.

Read the entire allegation to the juvenile and ask the juvenile:

**“Do you understand the allegations contained in the petition on file with the court?”**

If yes, proceed. If no, explain further any allegations the juvenile does not fully understand.

**“You may enter a plea of “true” or “not true” to the allegations contained in the petition. I will read each allegation individually and ask you to enter a plea to each separately.”**

**“To the allegation that you \_\_\_\_\_, how do you plead?”**

NOTE: Repeat the previous question for each allegation when more than one charge appears in the petition.

If the juvenile pleads not true, proceed as follows:

Prior to advising the juvenile of his right to waive any of the rights he has in court, ask counsel if a written waiver of any of these rights has been filed or will be filed with the court. If the attorney intends to advise the juvenile to waive any rights, you should have a written waiver filed. That waiver must be signed by the juvenile, the attorney and the parents or responsible adult for the juvenile. Do not rely on oral waivers of these rights. You may proceed with the following script, however, secure the written waiver before any ruling is made.

If the juvenile wants to waive the right to a jury pursuant to Family Code Sec. 54.03(b)(6), ask the following:

**“Do you waive the right to a trial by jury?”**

Ask the juvenile’s attorney:

**“Do you join your client in waiving the right to a trial by jury?”**

Ask the juvenile’s parent or guardian:

**“Do you approve of the juvenile’s waiver of the right to trial by jury?”**

If the child wishes to waive the privilege against self-incrimination or the right to confront the State’s witnesses, repeat the above questions with regard to each of those rights.

**“The State may call its witnesses and present its evidence.”**

**“Does the State rest?”**

**“The Respondent may call its witnesses and present its evidence.”**

**“Does the Respondent rest?”**

In a jury trial, charge the jury.

**“Based on the pleadings on file, and the record, which reflects that the juvenile is properly before the court, [and in a jury trial, the jury’s verdict], the juvenile is hereby found/not found to be a child who has engaged in delinquent conduct/a child in need of supervision.”**

“\_\_\_\_\_ [name of parent or guardian] and  
\_\_\_\_\_ [name of child], you are both advised that  
the child has the right to appeal, the right to have an  
attorney represent him/her in the appeal and he/she has  
the right to have an attorney appointed for purposes of an  
appeal if the child and his/her family are indigent.”

“The adjudication hearing is closed.”

“Do you wish to give notice of appeal at this time?”

“The disposition hearing in this case will start immediately  
following the conclusion of this hearing on adjudication.”

or

“The disposition hearing in this case will be held in this  
courtroom at \_\_\_\_\_ o’clock AM or PM, on the \_\_\_ day of  
\_\_\_\_\_, 20\_\_\_. All parties are ordered to be present at that  
time. No further notice will issue concerning the setting of  
this matter.”

“Court is adjourned.”

## SCRIPT FOR DISPOSITION HEARINGS

**“This is cause number \_\_\_\_\_ in the matter of \_\_\_\_\_ [name of juvenile].”**

Ask both the juvenile and the parent or guardian of the juvenile:

**“Did you receive notice of this hearing?”**

**“Is the State ready to proceed?”**

**“Is the Respondent ready to proceed?”**

Administer the oath to all witnesses:

**“Do each of you solemnly swear or affirm that the testimony you will give in the cause now on trial before the court will be the truth, the whole truth, and nothing but the truth, so help you God?”**

**“The State may call its witnesses.”**

**“Does the State rest?”**

**“The Respondent may call its witnesses.”**

**“Does the Respondent rest?”**

Both sides close and make arguments, where appropriate.

Announce the following findings:

**“The court finds/does not find that the juvenile is in need of rehabilitation.”**

**“The court finds/does not find that the juvenile is in need of protection.”**

**“The court finds/does not find that the public needs protection.”**

If the court does not find at least one of the above, enter an order of no formal disposition and dismiss the child.

If the court finds at least one of the above, order any of the following:

**“The juvenile is placed on probation in the juvenile’s home for \_\_\_\_\_ [state the length of time, which may not extend past the juvenile’s 18th birthday].”**

or

**“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 conditions of probation. It is in the child’s best interests to be placed outside the child’s home; and 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. Therefore, the juvenile is placed on probation for \_\_\_\_\_ [state the length of time, which may not extend past the juvenile’s 18th birthday] in the custody of a relative or other fit person, \_\_\_\_\_ [insert name of person in whose custody the juvenile is placed].”**

or

**“in a suitable foster home, \_\_\_\_\_ [insert the name of the foster home].”**

or



**“in a public or private residential treatment facility, other than the Texas Juvenile Justice Department,  
\_\_\_\_\_ [insert the name of the facility].”**

or

**“in a public or private post-adjudication secure correctional facility, other than the Texas Juvenile Justice Department,  
\_\_\_\_\_ [insert the name of the facility].”**

**“The juvenile is committed to the Texas Juvenile Justice Department for \_\_\_\_\_ [state the length of time, which may not extend past the juvenile’s 21st birthday].”**

In addition to the disposition assessed, the court may order any of the following:

Determine if an indigency hearing has been held. If so, and the juvenile and parents have been found indigent, you may not order them to pay cost of facility or attorney’s fees. If there has been no indigency hearing, one must be conducted. However, this must conform to the juvenile standing order on appointment of counsel because that is the standard for determining indigency for all purposes.

**“The court orders that the juvenile’s parents must pay all or part of the cost for the juvenile’s care in a placement facility or a home other than the juvenile’s home.”**

**“The court orders that the juvenile’s parents pay the attorney’s fees in the amount of \$\_\_\_\_\_ even though the attorney was appointed because the Court deems the parents capable of paying.”**

**“The Court orders that the juvenile \_\_\_\_\_ [and/or the juvenile’s parents] must pay probation fees in the amount of \_\_\_\_\_ [not to exceed \$\_\_\_\_\_ per month]”;**

**“The Court orders that the juvenile \_\_\_\_\_ [and/or the juvenile’s parents] must pay Juvenile Probation Diversion Fund fees in the amount of \_\_\_\_\_ [not to exceed \$\_\_\_\_\_ per month]”;**

**“The Court finds that \_\_\_\_\_ [insert name] has, by willful act or omission, contributed to, caused or encouraged the juvenile’s delinquent behavior, and therefore the Court orders that \_\_\_\_\_ [insert name]**

**refrain from doing anything that would be injurious to the welfare of the juvenile”;**

**“The Court finds that \_\_\_\_\_ [insert name] has, by willful act or omission, contributed to, caused or encouraged the juvenile’s delinquent behavior, and therefore the Court orders that \_\_\_\_\_ [insert name] be enjoined from contacting the juvenile”;**

**“The Court orders that \_\_\_\_\_ [insert name], a person living in the same household with the juvenile, participate in social or psychological counseling”;**

**“The Court orders that the juvenile \_\_\_\_\_ [and/or the juvenile’s parents] pay restitution to \_\_\_\_\_ [insert name], the victim of an offense, in the amount of \_\_\_\_\_ [not to exceed the actual loss suffered by the victim for property loss, property damage, or medical or dental fees].”**

**“\_\_\_\_\_ [name of parent or guardian] and \_\_\_\_\_ [name of child], you are both advised that the child has the right to appeal, the right to have an attorney represent him/her in the appeal and**

**he/she has the right to have an attorney appointed for purposes of an appeal if the child and his/her family are indigent.”**

**“Do you wish to give notice of appeal at this time?”**

### **Notes on Certain Mandatory Conditions of Probation**

#### NOTE FOR SERIOUS FELONY OR DEADLY WEAPON

OFFENSES: If the juvenile has been declared delinquent for an offense listed in {Tex. Code Crim. Proc. art. 42A.054} or a felony involving a deadly weapon, the court is **OBLIGATED** as a condition of probation to order the child to provide a DNA sample to DPS (unless the child has already submitted a sample under other law).

NOTE FOR GRAFFITI OFFENSES: If the juvenile has been adjudicated delinquent for conduct under Tex. Penal Code Sec. 28.08, the judge **MUST** order restitution by reimbursing the owner, including a political subdivision, for the cost of restoring the property or, with the consent of the owner or political subdivision, by personally restoring the property. The court also is **OBLIGATED** to order a juvenile placed on probation for graffiti-related conduct to perform a minimum of fifteen to thirty

hours of community service, depending upon the amount of pecuniary loss resulting from the offense.

NOTE FOR CHILD SUPPORT PAYMENTS: If a person is obligated by court order to pay child support for a juvenile placed on probation outside the home, or placed at the Texas Juvenile Justice Department, the court IS OBLIGATED to order the child support assigned to the local probation office or the Texas Juvenile Justice Department, according to the placement. Any child support may be paid by a payroll withholding order.

NOTE FOR SEXUAL OFFENSES: If the juvenile has been declared delinquent for any of a number of sex offenses, the court may order the juvenile to submit to HIV/AIDS testing, and the results may be released to both the juvenile and the victim.

NOTE FOR HUMAN TRAFFICKING AND DRUG OFFENSES: If the juvenile has been found to have engaged in delinquent conduct or conduct indicating a need for supervision for a violation of human trafficking laws or for the use, possession, manufacture, or delivery of a controlled substance or marijuana, or has been found to have engaged in delinquent conduct or conduct indicating a need for supervision for driving while

intoxicated, the court IS REQUIRED to order the suspension of the juvenile's driver's license, or order that the issuance of a license be denied, for the following periods of time:

until the age of 19 or 365 days, whichever is longer, for the first offense, or,

if the delinquency resulted from the ingestion of a controlled substance or was a felony grade penal law violation of the Controlled Substances Act, the suspension is indefinite until the juvenile completes a drug abuse course approved by Texas Dept. of State Health Services, Substance Abuse Division. After the completion of the course, the suspension runs for an additional 180 days. [For further information on license suspensions, see Tex. Fam. Code Sec. 54.042.]

The Court should either read the conditions of probation to the juvenile and ask the juvenile if the juvenile understands them, or give them to the juvenile with instructions for him or her to read them with the attorney and probation officer outside the courtroom and then sign them signifying an understanding them and the requirement to abide by them.

**SCRIPT FOR DISCRETIONARY**  
**TRANSFER HEARING**

“This is cause number \_\_\_\_\_, in the matter of \_\_\_\_\_.”

“The Original Petition seeking Waiver of Jurisdiction and Transfer to Criminal District Court was filed on \_\_\_\_\_ and served on the child \_\_\_\_\_, and parent or guardian, \_\_\_\_\_.”

“Present with the child in his/her court appearance is his/her attorney, \_\_\_\_\_. Also present is his parent/guardian/guardian ad litem, \_\_\_\_\_.”

Inform the juvenile:

“The allegation(s) against you are:”

Recite the allegations contained in the petition.

**“If you are found to be a child who has engaged in delinquent conduct based on a violation of a felony grade penal law, you will have a record, possibly for the remainder of your life, which will be admissible in any future sentencing hearing, even when you are an adult.”**

**“If you are found to be a child who has engaged in delinquent conduct based on any felony grade penal law, you could be placed at the Texas Juvenile Justice Department with possibility of removal, or if you are found to have engaged in delinquent conduct based on any violation of a penal law of the grade of Class A or Class B misdemeanor or any felony grade penal law, you could be placed on probation either in your home or outside your home.”**

**“If you are found to be a child in need of supervision, you could be placed on probation either in your home or outside your home.”**

**“If you are found to have engaged in delinquent conduct alleged in a petition approved by a grand jury that includes one of the following offenses, you may be sentenced to**



**commitment in the Texas Juvenile Justice Department  
with a possible transfer to the Texas Department of  
Criminal Justice for a maximum term of forty years:**

- \* murder;**
- \* capital murder;**
- \* manslaughter**
- \* aggravated kidnapping;**
- \* sexual assault or aggravated sexual assault;**
- \* aggravated robbery;**
- \* aggravated assault;**
- \* injury to a child, elderly individual, or disabled  
individual;**
- \* deadly conduct (discharging firearm at persons or  
certain objects);**

- \* an offense that is a felony of the first degree or an aggravated controlled substance felony;**
- \* criminal solicitation;**
- \* indecency with a child;**
- \* criminal solicitation of a minor;**
- \* arson (if bodily injury or death resulted);**
- \* intoxication manslaughter;**
- \* criminal conspiracy to commit any of the above offenses; or**
- \* criminal attempt to commit:**
  - murder;**
  - capital murder;**
  - indecency with a child;**
  - aggravated kidnapping;**

- aggravated sexual assault; or
- aggravated robbery;
- manufacture or delivery of controlled substances in a drug-free zone or by using a child in commission of the offense;
- sexual assault;
- injury to a child (if punishable as a first-degree felony);
- sexual performance by a child;
- compelling prostitution; or
- trafficking of persons.”

“You are entitled to have the nature and consequences of these allegations fully explained to you by your attorney and by this Court.”

“You have a privilege against self-incrimination in this hearing, which means that you have a right to remain silent

and not make any statement that might incriminate you.  
Any statement you make may be used against you.”

“You have the right to hear the State’s evidence against you, the right to confront witnesses who might testify against you, and the right to call witnesses to court to testify on your behalf. You do not have the right to a jury determination on the issue of certification.”

“You have the right to be represented by an attorney. If you are indigent, that is, if you cannot afford an attorney, the court will appoint one for you.”

“Do you understand these rights?”

“And do you understand that:”

“We are here to decide whether or not this case, which includes all the offenses alleged, will be transferred to the District Court for trial.”

“We are not here to determine guilt or innocence. This is not a trial. It is merely a hearing to determine where the trial will be conducted.”

**“The Court will consider a number of factors that are appropriate to evaluate in determining if waiver of jurisdiction is to take place. Those factors are:**

- \* whether the alleged offense was against person or property, with greater weight in favor of the transfer given to offenses against the person;**
- \* the sophistication and maturity of the child;**
- \* 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;**
- \* recommendations of the Texas Juvenile Justice Department and prosecuting attorney; and**
- \* any other factor relevant to the issue.”**

**“A complete diagnostic study, social evaluation and full investigation of the child, his circumstances, and the circumstances of the alleged offense have been ordered and conducted and made available to counsel for the child.”**

**“Is the State ready?”**

**“Is the Juvenile ready?”**

Ask the child’s attorney:

**“Have you received and read the State’s petition?”**

**“Do you believe your client understands this petition and the allegations against him/her and do you believe he/she is competent to assist in this hearing?”**

Ask the State’s attorney to read the State’s petition, unless the child waives the reading of the petition.

Swear witnesses and parties:

**“Do each of you solemnly swear or affirm that the testimony you will give in the cause now on trial before the court will be the truth, the whole truth, and nothing but the truth, so help you God?”**

Have witnesses and parties state their full legal names for the record.

**“The State may call its witnesses and present its evidence.”**

**“Does the State rest?”**

**“The juvenile may call his/her witnesses and present his/her evidence.”**

**“Does the juvenile rest?”**

Allow the parties to present closing arguments.

**“In making a decision today as to whether or not this court should waive its exclusive original jurisdiction and make a discretionary transfer of this case to the criminal district court, the Court must consider the following factors:”**

**“1) Is the child alleged to have violated a penal law of the grade of felony?”**

**“2) Was the child 14 years of age or older at the time he/she 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 juvenile adjudication hearing has been conducted)?”**

**“3) Was the child 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 2nd or 3rd degree or a state jail felony?”**

**“4) After full investigation and hearing, is there probable cause to believe that the child committed the offense alleged and that because of the seriousness of the offense or the background of the child the welfare of the community requires criminal proceedings.”**

**“Based upon the evidence presented, the Court makes the following findings:”**

**“The juvenile was \_\_\_\_\_ years of age at time of commission of alleged offense;”**

**“The Court finds that no adjudication hearing has been conducted concerning any of the alleged acts in the State’s Motion for Discretionary Transfer.”**

**“The alleged acts would be felonies under the penal laws of the State of Texas if committed by an adult.”**



**“The alleged offenses are against person and/or property.”**

**“The Court further specifically finds that there is probable cause to believe that the Respondent committed at least one of the offenses alleged in the State’s Motion for Discretionary Transfer. The juvenile is sufficiently mature and sophisticated to understand right from wrong.”**

**“The Respondent Child is of sufficient sophistication and maturity to be tried as an adult. The Court specifically finds that the Respondent is of sufficient sophistication and maturity to aid an attorney in a defense.”**

**“Because of the record and previous history of the Respondent and because of the extreme and severe nature of the alleged crimes, the prospects of adequate protection for the public and the likelihood of reasonable rehabilitation of the Respondent by the use of the procedures, services, and facilities that are currently available to the Juvenile Court is in doubt.”**

**“After considering all the testimony, diagnostic study, social evaluation, and full investigation, it is contrary to the best interests of the public to retain jurisdiction in the Juvenile Court.”**

**“Because of the seriousness of the alleged offenses and the background of Respondent, the welfare of the community requires criminal proceedings. The reasons for this disposition are as follows:”**

**“**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.”

**“Therefore, the Court waives jurisdiction of this cause and transfers it to the appropriate Criminal District Court or District Court for proper criminal proceedings and hereby certify the action.”**

**“The Court instructs the State to prepare a complaint charging the offense(s) being transferred to criminal court.”**

**“Transfer of custody is an arrest and the Sheriff’s Office is ordered to maintain custody of this child.”**

Advise both the child and the parent or guardian of the right to appeal:

**“I want to advise you as parent or guardian and you, \_\_\_\_\_ [insert child’s name], that you have the right to appeal, the right to have an attorney to represent you in the appeal, and to have an attorney appointed for purposes of an appeal if you and your family are indigent.”**

**“Do you wish to give notice of appeal at this time?”**

**SCRIPT FOR MANDATORY TRANSFER**  
**HEARING**

“This is cause number \_\_\_\_\_, in the matter of \_\_\_\_\_.”

“The Original Petition seeking Waiver of Jurisdiction and Transfer to Criminal District Court was filed on \_\_\_\_\_ and served on the child, \_\_\_\_\_, and parent or guardian, \_\_\_\_\_.”

“Present with the child in his/her court appearance is his/her attorney, \_\_\_\_\_. Also present is his parent/guardian/guardian ad litem, \_\_\_\_\_.”

Inform the juvenile:

“The allegation(s) against you are:”

Recite the allegations contained in the petition.

“If you are found to be a child who has engaged in delinquent conduct based on a violation of a felony grade

penal law, you will have a record, possibly for the remainder of your life, which will be admissible in any future sentencing hearing, even when you are an adult.”

“If you are found to be a child who has engaged in delinquent conduct based on any felony grade penal law, you could be placed at the Texas Juvenile Justice Department with possibility of removal, or if you are found to have engaged in delinquent conduct based on any violation of a penal law of the grade of Class A or Class B misdemeanor or any felony grade penal law, you could be placed on probation either in your home or outside your home.”

“If you are found to be a child in need of supervision, you could be placed on probation either in your home or outside your home.”

“If you are found to have engaged in delinquent conduct alleged in a petition approved by a grand jury that includes one of the following offenses, you may be sentenced to commitment in the Texas Juvenile Justice Department

with a possible transfer to the Texas Department of Criminal Justice for a maximum term of forty years:

- \* murder;
- \* capital murder;
- \* manslaughter
- \* aggravated kidnapping;
- \* sexual assault or aggravated sexual assault;
- \* aggravated robbery;
- \* aggravated assault;
- \* injury to a child, elderly individual, or disabled individual;
- \* deadly conduct (discharging firearm at persons or certain objects);
- \* an offense that is a felony of the first degree or an aggravated controlled substance felony;

- \* criminal solicitation;**
- \* indecency with a child;**
- \* criminal solicitation of a minor;**
- \* arson (if bodily injury or death resulted);**
- \* intoxication manslaughter;**
- \* criminal conspiracy to commit any of the above offenses; or**
- \* criminal attempt to commit:**
  - murder;**
  - capital murder;**
  - indecency with a child;**
  - aggravated kidnapping;**
  - aggravated sexual assault; or**
  - aggravated robbery;**

- manufacture or delivery of controlled substances in a drug-free zone or by using a child in commission of the offense;
- sexual assault;
- injury to a child (if punishable as a first-degree felony);
- sexual performance by a child;
- compelling prostitution; or
- trafficking of persons.”

“You are entitled to have the nature and consequences of these allegations fully explained to you by your attorney and by this Court.”

“You have a privilege against self-incrimination in this hearing, which means that you have a right to remain silent and not make any statement that might incriminate you. Any statement you make may be used against you.”



**“You have the right to confront the State’s witnesses and to hear the State’s evidence against you. You do not have the right to a jury determination on the issue of certification.”**

**“You have the right to be represented by an attorney. If you are indigent, that is, if you cannot afford an attorney, the court will appoint one for you.”**

**“Do you understand these rights?”**

**“And do you understand that:”**

**“We are here to decide whether or not this case, which includes all the offenses alleged, will be transferred to the District Court for trial.”**

**“We are not here to determine guilt or innocence. This is not a trial. It is merely a hearing to determine where the trial will be conducted.”**

**“The Court must consider the following factors in determining whether or not transfer of this case is mandated:**

**\* whether the child has previously been transferred to a district court or criminal district court for criminal proceedings;**

**\* whether the child was indicted by the grand jury in the matter previously transferred;**

**\* whether the child was found not guilty in the matter previously transferred;**

**\* whether the matter previously transferred was dismissed with prejudice;**

**\* whether the child was convicted in the matter previously transferred but the conviction was reversed on appeal and the appeal is final; and**

**\* whether the child is alleged to have committed a felony.”**

**“Is the State ready?”**

**“Is the juvenile ready?”**

Ask the child’s attorney:

**“Have you received and read the State’s petition?”**

**“Do you believe your client understands this petition and the allegations against him/her and do you believe he/she is competent to assist in this hearing?”**

Ask the State’s attorney to read the State’s petition, unless the child waives the reading of the petition.

Swear witnesses and parties:

**“Do each of you solemnly swear or affirm that the testimony you will give in the cause now on trial before the court will be the truth, the whole truth, and nothing but the truth, so help you God?”**

Have witnesses and parties state their full legal names for the record.

**“The State may call its witnesses and present its evidence.”**

**“Does the State rest?”**

**“The juvenile may call his/her witnesses and present his/her evidence.”**

**“Does the juvenile rest?”**

Allow the parties to present closing arguments.

**“In making a decision today as to whether or not this court must waive its exclusive original jurisdiction and transfer this case to the criminal district court, the Court must consider the following factors:**

**\* whether the child has previously been transferred to a district court or criminal district court for criminal proceedings;**

**\* whether the child was indicted by the grand jury in the matter previously transferred;**

**\* whether the child was found not guilty in the matter previously transferred;**

**\* whether the matter previously transferred was dismissed with prejudice;**

**\* whether the child was convicted in the matter previously transferred but the conviction was reversed on appeal and the appeal is final; and**

**\* whether the child is alleged to have committed a felony.”**

**“Based on the evidence presented, the Court makes the following findings:”**

**“The juvenile is alleged to have committed a felony.”**

**“The juvenile has previously been transferred to a district court or criminal district court for criminal proceedings.”**

**“The child was indicted by the grand jury in the matter transferred.”**

or

**“The child was not found not guilty in the matter transferred.”**

or

**“The matter transferred was not dismissed with prejudice.”**

or

**“The child was convicted in the matter transferred and the conviction was not reversed on appeal and the appeal is final.”**

**“Therefore, the Court waives jurisdiction of this cause and transfers it to the appropriate Criminal District Court or District Court for proper criminal proceedings and hereby certify the action.”**

**“The Court instructs the State to prepare a complaint charging the offense(s) being transferred to criminal court.”**

**“Transfer of custody is an arrest and the Sheriff’s Office is ordered to maintain custody of this child.”**

Advise both the child and the parent or guardian of the right to appeal:

**“I want to advise you as parent or guardian and you, \_\_\_\_\_ [insert child’s name], that you have the right to appeal, the right to have an attorney to represent you in the appeal, and to have an attorney appointed for purposes of an appeal if you and your family are indigent.”**

**“Do you wish to give notice of appeal at this time?”**