

## **Juvenile Minimum Plan Requirements**

1. Conduct prompt detention hearing if child not released by intake.
  - If child taken into custody, then must hold detention hearing by second working day, or first working day if detained on Friday or Saturday [Sec. 54.01(a), FC]
  - Prior to detention hearing, court must inform child's parent or other person responsible for child's support of child's right to appointed counsel if they are indigent [Sec. 54.01(b), FC]
2. Determine indigence according to standards directed by the indigent defense plan.
  - Detail procedures used to determine whether a child's parent(s) or other person(s) responsible for child's support are indigent [Sec. 51.102(b)(1), FC & Art. 26.04(l)-(r), CCP]
  - State financial standard(s) to determine whether a child's parent(s) or other person(s) responsible for child's support are indigent [Art. 26.04(l), CCP]
  - List factors courts will consider when determining whether a child's parent(s) or other person(s) responsible for child's support are indigent [Art. 26.04(m), CCP]
3. Establish minimum attorney qualifications.
  - Establish objective qualification standards for attorneys for three levels of conduct [Sec. 51.102(a),(b)(2), FC]:
    - Conduct indicating a need for supervision or delinquent conduct (no TYC possible);
    - Delinquent conduct (TYC possible); and
    - Determinate sentence or discretionary transfer to criminal court proceedings has been initiated.
  - Standards must require attorneys to complete at least 6 hours of continuing legal education pertaining to juvenile law during each 12-month reporting period (see [1 TAC §§174.1-174.4](#))
  - Standards must require attorneys to submit by October 15 each year the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in this county for adult criminal and juvenile delinquency cases. The report must be made on a form prescribed by the Texas Indigent Defense Commission for the prior 12 months that begins on October 1 and ends on September 30 [Art. 26.04(j)(4), CCP]
  - Attorneys must be approved by a majority of the Juvenile Board to be placed on the appointment list [Sec. 51.102(a), FC & Art. 26.04, CCP]
4. Appoint counsel promptly.
  - Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing [Sec. 54.01(b-1), FC]
  - If the child was not represented by an attorney at the detention hearing and a determination was made to detain the child, the child shall immediately be entitled to representation by an attorney [Sec. 51.10(c), FC]

- If not detained, attorney must be appointed on or before 5<sup>th</sup> working day after the date the petition for adjudication, motion to modify, or discretionary transfer hearing was served [Sec. 51.101(c)-(d), FC]
5. Institute a fair, neutral, and non-discriminatory attorney selection process.
- Rotational method: Must appoint attorneys from among next five names on appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order [Art. 26.04(a), CCP]
  - Public Defender: Must meet the requirements in Article 26.044, CCP and process for appointment of the public defender needs to be in indigent defense plan [Art. 26.04(f), CCP]
  - Alternative method [Art. 26.04(g)-(h), CCP]:
    - Must be established by vote of two-thirds of the juvenile board
    - Must be approved by presiding judge of administrative judicial region
    - Must allocate appointments reasonably and impartially among qualified attorneys
    - For contract defender program, must meet contract defender standards (see [1 TAC §§174.10 – 174.25](#))
6. Fee and expense payment process.
- Payments shall be in accordance with a schedule of fees adopted by the Juvenile Board [Art. 26.05(b), CCP]
  - No payment shall be made until judge approves payment after submissions on court's attorney fee voucher [Art. 26.05(c), CCP]
  - If judge disapproves the requested amount of payment, the judge shall make written findings stating the amount that the judge approves and each reason for approving an amount different from the requested amount [Art. 26.05(c), CCP]
    - An attorney whose request for payment is disapproved or is not acted upon within 60 days of submission may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region
  - Expenses incurred without prior approval shall be reimbursed if expenses are reasonably necessary and reasonably incurred [Arts. 26.05(d) & 26.052(h), CCP]
7. Forms.
- Affidavit of Indigence
  - Attorney Application for Appointment
  - Attorney Fee Schedule [Art. 26.05(b), CCP]
  - Attorney Fee Voucher [Art. 26.05(c), CCP]
  - Public Defender Plan or Proposal [Sec. 79.036(a)(2), GC]
  - Managed Assigned Counsel Plan of Operation [Sec. 79.036(a)(3), GC]
  - Contracts for Indigent Defense Services [Sec. 79.036(a)(4), GC]
  - Other Forms

CCP=Code of Criminal Procedure    FC=Family Code  
 GC=Government Code    TAC=Texas Administrative Code