

Juvenile Board Guide

Juvenile Board defined – “Juvenile board” (herein board or juvenile board) means a body established by law to provide juvenile probation services to a county. Human Resources Code (herein HRC) Sec. 201.001 (a) (6). A juvenile board is a “specialized local entity”; a separate and independent local governmental entity, not a unit of county government, as provided in Local Government Code Sec. 140.003 (a) (2). See Att’y Gen. Op. No. DM-460(1997).

Enabling Legislation – Basic law creating juvenile boards across the state is found at HRC Chapter 152, Subchapters A-D. Many counties have passed state legislation allowing deviation from the general terms of operation and specific counties are listed in alphabetical order at HRC Sec. 152.0071-152.2571.

Juvenile Board Responsibilities and Compliance – The basic responsibilities of the juvenile board are spelled out in the Texas Administrative Code, Title 37, Part 11, Ch. 341 at Sec. 341.2-341.3. These rules cover the requirements for hiring a chief administrative officer and the related responsibilities and functions of the juvenile probation department and the chief administrative office via adoption of written personnel and department policies and procedures.

Juvenile Board Law and Requirements

Suitability of Juvenile Court Facilities -- Family Code (herein FC) Sec.51.05 (b) requires annual reporting by the juvenile board re suitability of juvenile court facilities and recommendations for improvements.

Designation of Juvenile Court – FC Sec. 51.04(b) requires the juvenile board designate juvenile courts.

State Funding for Juvenile Board – Annual state aid to the juvenile board and related provisions for continued eligibility by the county is found at HRC Sec. 223.001-223.005. The annual execution of the State Financial Assistance Contract and the passage of a formal resolution are the basic steps that authorize the juvenile board to receive and spend its share of state funds appropriated to the Texas Juvenile Justice Department (herein TJJD) by the legislature.

Budget Preparation – The juvenile board shall prepare a budget for the juvenile probation department and other facilities and programs under the jurisdiction of the board. HRC Sec. 152.0012 See “Budget Considerations” herein.

Record Keeping -- HRC Sec. 221.007, FC Sec. 58.105 and FC Sec. 59.011 requires the juvenile board keep and submit records deemed necessary by TJJD.

Inspection and Certification of Facilities – Annual juvenile board personal inspection of all public and private pre-adjudication and post-adjudication secure and nonsecure juvenile facilities within the county is required by FC Secs. 51.12(c), 51.125(b) and 51.126(b).

Informal Disposition and First Offender Programs – FC Sec. 52.032 requires the adoption of first offender and informal disposition guidelines for police agencies within the county by the cooperative efforts of the juvenile board and each law enforcement agency.

Inspections and Audits by TJJD -- HRC Sec. 221.008 allows inspections and audits by the TJJD of the juvenile board, probation department and facilities to determine compliance with the board’s rules.

Complaints Against Juvenile Board -- HRC Sec. 221.010 governs complaints and procedures for investigation of complaints filed with TJJD relating to a juvenile board.

Pre-trial Detention Policy for Discretionary Transferred Youth – The juvenile board must establish a policy for detention of youth transferred to criminal court via FC Sec. 54.02 and Sec. 51.12 in accord with HRC Sec. 152.0015.

Appointment of Attorney Plan – The board shall adopt an indigent defense plan for juveniles that recognize varying degrees of experience and qualifications to meet the individual needs of the child. FC Sec. 51.102

Destruction of Juvenile Records Audit – The board shall conduct an annual audit of the records of all law enforcement agencies to verify the destruction of photos and fingerprints as certified by law enforcement. FC Sec. 58.001, 58.002(a) and (c).

Open Meetings Act -- Government Code(herein GC),Chapter 551 provides that the public must be allowed to attend any juvenile board meeting with the exception of executive sessions and must be given notice of the date, time, place and subject of the meeting. An agenda must be posted at least 72 hours before the scheduled meeting and no later than 2 hours for emergency meetings of urgent public necessity. A quorum of the juvenile board must be present in order to carry out business and vote. Board members must be present at the meeting in order to deliberate and vote and may not vote by proxy. GC Sec. 551.005 requires each member of the board complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body re Open Meetings Act not later than the 90th day after the date the member takes the oath of office. See www.oag.state.tx.us for training video and certificate.

Juvenile Board Authority

Juvenile boards are created by statutes located within Ch. 152 of the HRC. In addition to the basic provisions for the board, there are over 200 unique enactments for various counties. In many instances within these special provisions counties have exempted the board from some or all of Secs. 152.002-152.008 which contain law relating to the compensation, expenses and responsibilities of the board and chief juvenile probation officer. This election taken by these counties has led to confusion re authority of the board to conduct activities or make policy addressed within those deleted sections. It has been recommended that the board and the chief juvenile probation officer use HRC Sec. 152.0007-152.0008 as a guide for operation (Texas Juvenile Law, 8th Edition, pg.9). The Attorney General has recently dealt with these questions by finding alternative (see HRC SEC. 142.002) and/or implied authority for the boards based upon the general principle that political subdivisions have the authority to carry out its legislative mandate, i.e. providing juvenile probation services. See Tex. Att’y Gen. Op. Nos. GA-1085(11-10-14) and GA-1069(7-2-14).

In addition to questions relating to each individual board’s basic authority described above, misunderstanding, to the point of litigation, exist with respect to the role of the board and commissioners court. The juvenile board is a “specialized local entity” as specifically enumerated in Local Govt. Code Sec. 140.003(a) and is not a unit of county government. Regulation; including compliance audits of the juvenile probation department and board, is the responsibility of the TJJD and not the commissioners court; consequently the juvenile board and not the commissioners court has authority over the employment decisions , travel policies and general management and financial decisions for the juvenile probation services within the county. See HRC Sec. 142.002(a) and Tex. Att’y Gen. Op. No. JC-0085.

Budget Considerations

Funding for juvenile probation services comes from state and local county sources. The board sets the annual budget for the juvenile probation department and other facilities and programs under the jurisdiction of the board. The commissioners court shall review and consider only the amount of the budget derived from the county, as opposed to state funding, on a limited abuse of discretion standard (HRC Sec. 152.0012). With respect to HRC Sec. 152.0012, author of the legislation, Representative Toby Goodman has stated that the purpose of the review was to allow the commissioner’s court to adequately prepare for the level of funding that would be necessary; not to give veto power over the juvenile budget (Debate on H.B. 327, 74th Leg.,R.S.(May 25, 1995)(transcript available from House Video/Audio Services)Attorney General, John Cornyn, in his opinion rendered April 12, 2000 addressed various questions involving juvenile probation funding as follows:

“A commissioners court's control over a juvenile probation department's expenditures is confined to this limited budget review before the commencement of the fiscal year. A juvenile board or juvenile probation department is a "specialized local entity" under section 140.003 of the Local Government Code. Pursuant to section 140.003, once the county funds budgeted for the juvenile probation department are transferred to the department, they are deposited in a special account in the county treasury, along with state funds allocated to the department. At this point, the funds become funds of the juvenile probation department to be disbursed as directed by the juvenile board and lose their character as county funds. *See* Tex. Loc. Gov't Code Ann. § 140.003(f) (Vernon 1999) ("Each specialized local entity shall deposit in the county treasury of the county in which the entity has jurisdiction the funds the entity receives. The county shall hold, deposit, disburse, invest, and otherwise care for the funds on behalf of the specialized entity as the entity directs."). Although disbursements from the account are subject to review and the approval of the county auditor, *see* Tex. Loc. Gov't Code Ann. § 140.003(g) (Vernon 1999); Tex. Att'y Gen. Op. No. DM-257 (1993) (concluding that section 140.003(f) of the Local Government Code incorporates requirements of county auditor budgetary oversight and countersignature); the commissioners court lacks authority to review juvenile probation department expenditures, *see* Tex. Att'y Gen. Op. Nos. JC-0085(1999) at 3; DM-460(1997) at 8.”

Attorney General Dan Morales addressed juvenile funding in the following manner; “Local Government Code Sec. 111.094 gives a commissioners court only the authority to set the dollar amount of the county funds which it will expend on the juvenile probation department. The commissioners court does not have supervisory authority over the juvenile board, an independent entity, and thus, the commissioners court’s role in the budgeting of the juvenile probation department is limited to setting the dollar amount of county funds in the department’s budget and reviewing that portion of the budget on an abuse of discretion standard.....the statutes do not give the commissioners court authority to determine how the funds are to be expended.” See Tex. Att’y Gen. Op. No. DM-460 (December 17, 1997).