

Texas Administrative Code Chapter 341

Revised standards effective on April 1, 2019

The TJJD Board has adopted changes to 37 TAC Chapter 341, relating to General Standards for Juvenile Probation Departments. These changes will take effect on April 1, 2019. This document contains a summary of the changes and shows the marked-up text of the affected standards. To see the final text of Chapter 341 in its entirety without the mark-ups, please visit the [Resources page on the TJJD website](#).

Section #	Title	Summary of Rule	Summary of Key Changes
Standards for Juvenile Probation Departments			
341.202	Policies and Procedures	Lists several types of policies that juvenile boards must adopt.	Due to HB 1204 (85 th Legislature), added that each juvenile board must establish policies that prioritize: <ul style="list-style-type: none">• the diversion of children younger than 12 years of age from referral to a prosecuting attorney under Family Code Chapter 53; and• the limitation of detention of children younger than 12 years of age to circumstances of last resort.
341.400	Duties of Certified Juvenile Probation Officers	Lists certain duties that may be performed only by certified juvenile probation officers or those working toward certification.	Due to changes made by SB 1304 (85 th Legislature): <ul style="list-style-type: none">• removed the requirement to provide a verbal explanation to the juvenile and parent/guardian concerning certain information formerly contained in Family Code §58.209, such as who has access to juvenile records and when records may be eligible for restricted access or sealing; and• added a requirement to provide:<ul style="list-style-type: none">○ a written explanation of how juvenile records are sealed; and○ a copy of Family Code Chapter 58, Subchapter C-1, which addresses sealing and destruction of juvenile records.

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§341.202 Policies and Procedures

Effective Date: 4/1/19 [4/1/17]

(a) **Personnel Policies.**

The juvenile board must establish written personnel policies.

(b) **Department Policies.**

The juvenile board must establish written department policies and procedures. These policies and procedures must address [include, at a minimum,] the following topics if they apply [provisions, if applicable].

(1) **Deferred Prosecution.**

(A) If the juvenile board adopts a fee schedule for the collection of deferred prosecution fees, the board must establish a written policy that includes the following requirements.

- (i) The monthly fee must be determined after obtaining a financial statement from the parent or guardian and may not exceed the maximum set by [Texas] Family Code §53.03.
- (ii) The fee schedule must be based on total parent/guardian income.
- (iii) The chief administrative officer or his/her designee must approve in writing the fee assessed for each child, including any waiver of deferred prosecution fees.

(B) A deferred prosecution fee may not be imposed if the juvenile board does not adopt a fee schedule and rules for waiver of the deferred prosecution fee.

(2) **Volunteers and Interns.**

If a juvenile probation department uses [utilizes] volunteers or interns, the juvenile board must establish policies for the volunteer and/or internship program that include:

- (A) a description of the scope, responsibilities, and limited authority of volunteers and interns who work with the department;
- (B) selection and termination criteria, including disqualification based on specified criminal history;
- (C) a requirement to conduct criminal history searches as described in Chapter 344 of this title for volunteers and interns who will have direct, unsupervised access to juveniles;
- (D) a prohibition on having unsupervised contact with juveniles for volunteers and interns whose criminal history does not meet the requirements in Chapter 344 of this title;
- (E) the orientation and training requirements, including training on recognizing and reporting abuse, neglect, and exploitation;
- (F) a requirement that volunteers and interns meet minimum professional requirements if serving in a professional capacity; and
- (G) a requirement to maintain a sign-in log that documents the name of the volunteer or intern [volunteer/intern], the purpose of the visit, the date of the service, and the beginning and ending time of the service performed for the department.

(3) **Zero-Tolerance for Sexual Abuse.**

The juvenile board must establish zero-tolerance policies and procedures regarding sexual abuse as defined in Chapter 358 of this title. The policies and procedures must:

- (A) prohibit sexual abuse of juveniles under the jurisdiction of the department by department staff, volunteers, interns, and contractors;
- (B) establish the actions department staff must take in response to allegations of sexual abuse and TJJJ-confirmed incidents of sexual abuse; and

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(C) provide for administrative disciplinary sanctions and referral for criminal prosecution.

(4) **Pretrial Detention for Certain Juveniles.**

As required by [Texas] Human Resources Code §152.0015, the juvenile board must establish a policy that specifies whether a person who has been transferred for criminal prosecution under [Texas] Family Code §54.02 and is younger than 17 years of age may be detained in a juvenile facility pending trial.

(5) **Juveniles Younger Than 12 Years of Age.**

As required by Human Resources Code §152.00145, the juvenile board must establish policies that prioritize:

(A) the diversion of children younger than 12 years of age from referral to a prosecuting attorney under Family Code Chapter 53; and

(B) the limitation of detention of children younger than 12 years of age to circumstances of last resort.

(6)[(5)] **Taking Juveniles into Custody.**

The juvenile board must establish a policy that specifies whether juvenile probation officers may take a juvenile into custody as allowed by [Texas] Family Code §§52.01(a)(4), 52.01(a)(6), or 52.015.

(A) If the policy allows juvenile probation officers to take a juvenile into custody, the policy must specify whether the officers are allowed to use force in doing so.

(B) If the policy allows juvenile probation officers to use force in taking a juvenile into custody, the policy must:

(i) address prohibited conduct, circumstances under which force is authorized, and training requirements;

(ii) require each use of force to be documented, except when the only force used is the placement of mechanical restraints on the juvenile.

§341.400 Duties of Certified Juvenile Probation Officers

Effective Date: 4/1/19 [2/1/18]

(a) The following duties and responsibilities may be performed only by certified juvenile probation officers, except as allowed by subsection (b) of this section:

(1) recommending a disposition in formal court proceedings;

(2) providing final approval of written social history reports;

(3) acting as the primary supervising officer for court-ordered and deferred prosecution cases;

(4) acting as the primary supervising officer in a collaborative supervision agreement under [Texas] Family Code §51.075;

(5) developing and implementing case plans in accordance with Subchapter E of this chapter;

(6) conducting intake interviews and preliminary investigations and making release decisions under [Texas] Family Code §53.01 [7] unless another staff member is designated to do so by the juvenile board;

(7) taking a child into custody as authorized by [Texas] Family Code §§52.01(a)(4), 52.01(a)(6), or 52.015;

(8) serving as the designated inter-county transfer officer and performing the duties required by [Texas] Family Code §51.072;

(9) referring a child to a local mental health or mental retardation authority as required by [Texas] Family Code §54.0408; and

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- (10) ~~providing [explaining]~~ to the juvenile and to the juvenile's parent, guardian, or custodian a written explanation of the process of sealing juvenile records and a copy of Family Code Chapter 58, Subchapter C-1. ~~[, the following, as required by Texas Family Code §58.209:]~~
- ~~[(A) who will have access to the juvenile's record; and]~~
- ~~[(B) under what circumstances that record may be eligible for restricted access or sealing; and]~~
- ~~[(11) providing the juvenile with a written copy of the explanation in paragraph (10) of this subsection.]~~
- (b) An individual hired as a juvenile probation officer who is not yet certified as a juvenile probation officer may perform the duties under subsection (a) of this section only if the individual has:
- (1) not exceeded the deadline for submitting a certification application established by Chapter 344 of this title;
 - (2) completed a minimum of 40 hours of training, which must include the mandatory exam topics required in Chapter 344 of this title; and
 - (3) passed the certification exam for juvenile probation officers.