

Juvenile Detention Hearing Checklist

TIMING

- ☐ The initial hearing must be held “promptly,” but no later than the second working day after the child is taken into custody. [Tex. Fam. Code § 54.01\(a\)](#)
- ☐ If the child was detained on a Friday or Saturday, the hearing must be held on the first working day after the child was taken into custody. [Tex. Fam. Code § 54.01\(a\)](#)
- ☐ A Court or referee must make a probable cause determination within 48 hours of a child entering custody, including weekends and holidays. [Tex. Fam. Code § 54.01\(o\)](#)

LOCATION

- ☐ The hearing may be conducted remotely if the hearing is recorded and the parties have an opportunity to cross-examine witnesses. [Tex. Fam. Code § 54.012\(a\), \(c\)](#)
- ☐ The hearing may be held in the county where the child is detained even if that county is outside the child’s residence or where the alleged delinquent conduct, conduct indicating a need for supervision, or probation violation occurred. [Tex. Fam. Code § 54.01\(m\)](#)

BEFORE THE DETENTION HEARING

- ☐ Reasonable notice of the hearing shall be given to the child and the child’s parents, guardian, or custodian (if located). [Tex. Fam. Code § 54.01\(b\)](#)
- ☐ The notice can be either oral or written, and it must state the time, place, and purpose of the hearing. [Tex. Fam. Code § 54.01\(b\)](#)
- ☐ The Court must appoint counsel to represent the child within a reasonable time before the first detention hearing (absent exigent circumstances). [Tex. Fam. Code § 54.01\(b-1\)](#)

PARTIES PRESENT AT THE DETENTION HEARING

- ☐ Child
- ☐ Child’s parents, guardian, or custodian (if located)
- ☐ If no parent or guardian is present for the child at the hearing, then the court must appoint an attorney or a guardian ad litem (GAL) to protect the child’s interests. The attorney for the child can also serve as GAL for the hearing. [Tex. Fam. Code §§ 51.11\(a-1\)-\(c\), 54.01\(d\)](#)
- ☐ Child’s attorney
- ☐ Prosecuting attorney
- ☐ Juvenile probation officer

AT THE DETENTION HEARING

- ☐ No requirement to record an in-person hearing, unless a party requests it. [Tex. Fam. Code § 54.09](#)
- ☐ Prior to commencing hearing, admonish the parties as to the child’s right to counsel, right to appointed counsel if they are indigent, and right to remain silent with respect to the allegations. [Tex. Fam. Code § 54.01\(b\)](#)
 - **Practice Tip:** Explain the purpose of the hearing using age-appropriate language and make sure the child understands their rights.
- ☐ The Court may consider:
 - Written reports from probation officers, professional court employees, guardians ad litem, or professional consultants [Tex. Fam. Code § 54.01\(c\)](#)
 - Witness testimony. If the child testifies, any statement by the child is not admissible against the child at any other hearing. [Tex. Fam. Code § 54.01\(c\), \(g\)](#)
 - Any reasonably reliable information without regard to the admissibility of that information under the Texas Rules of Evidence. [Tex. Fam. Code § 54.01\(o\)](#)
- **Practice Tip:** The Court will typically review police reports, since hearsay is admissible.

Juvenile Detention Hearing Checklist *continued*

REQUIRED FINDINGS

- ☐ The Court must determine whether there is probable cause to believe that the child has engaged in delinquent conduct, conduct indicating a need for supervision, or conduct that violates an order of probation imposed by a juvenile court.
 - A determination of probable cause is not required if the child was taken into custody pursuant to an arrest warrant or a directive to apprehend.
 - If a Court or referee made a finding of probable cause prior to the detention hearing, an additional finding is not required. [Tex. Fam. Code § 54.01\(o\)](#)
- **Practice Tip: Review prior findings of probable cause to ensure the burden was met.**
 - If the Court finds that there is NOT probable cause, the child must be released.
- ☐ The child must be released from detention unless the Court finds at least one of the following criteria are met:
 - The child is likely to abscond or be removed from the jurisdiction of the court;
 - Suitable supervision, care, or protection for the child is not being provided by a parent, guardian, custodian, or other person;
 - The child has no parent, guardian, custodian, or other person able to return him to the court when required;
 - The child may be dangerous to himself or may threaten the safety of the public if released; OR
 - The child has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released. [Tex. Fam. Code § 54.01\(e\)](#)

SUBSEQUENT DETENTION HEARINGS

- ☐ After the initial detention hearing, subsequent hearings may be waived by the child and the attorney for the child, but the waiver must be in writing or during court proceedings that are recorded. [Tex. Fam. Code § 51.09](#)
- ☐ If the child is detained, a subsequent hearing must be held within 10 working days after the prior detention hearing if the county has a certified juvenile detention facility. [Tex. Fam. Code § 54.01\(h\)](#)
- ☐ If the county does NOT have a certified juvenile detention facility, then the subsequent hearing must be held no later than 15 working days after the previous detention hearing. [Tex. Fam. Code § 54.01\(h\)](#)

CONDITIONS OF RELEASE

- ☐ The Court may place conditions on the release of the child from custody. The requirements should be reasonably necessary to ensure the child's appearance at later proceedings. The conditions of release must be in writing, and a copy must be provided to the child. [Tex. Fam. Code § 54.01\(f\)](#)
 - Common examples: Setting a curfew, imposing random drug tests, and requiring regular attendance at school.
- **Practice Tip: Tailor conditions of release to each child. Connect the child to resources available in the community (i.e., behavioral or mental health treatment).**
- ☐ For counties 125,000+ population size, if the child being released was expelled under [Tex. Educ. Code § 37.007](#), then the release must be conditioned on the child attending a Juvenile Justice Alternative Education Program (JJAEP) pending a deferred prosecution or formal court disposition of the child's case. [Tex. Fam. Code § 54.01\(f\)](#)
- ☐ If there is probable cause to believe that the child violated a condition of release, then the release order may be revoked, and the child may go back into custody. [Tex. Fam. Code § 52.01\(a\)\(6\)](#)