

TEX FAMILY CODE ANN. § 52.031 : Texas Statutes - Section 52.031: FIRST OFFENDER PROGRAM

(a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody for:

- (1) conduct indicating a need for supervision; or**
- (2) delinquent conduct other than conduct that constitutes:**

(A) a felony of the first, second, or third degree, an aggravated controlled substance felony, or a capital felony; or

(B) a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05, Penal Code.

(b) Each juvenile board in the county in which a first offender program is established shall designate one or more law enforcement officers and agencies, which may be law enforcement agencies, to process a child under the first offender program.

(c) The disposition of a child under the first offender program may not take place until guidelines for the disposition have been adopted by the juvenile board of the county in which the disposition is made as required by Section 52.032.

(d) A law enforcement officer taking a child into custody may refer the child to the law enforcement officer or agency designated under Subsection (b) for disposition under the first offender program and not refer the child to juvenile court only if:

- (1) the child has not previously been adjudicated as having engaged in delinquent conduct;**
- (2) the referral complies with guidelines for disposition under Subsection (c); and**
- (3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody.**

(e) A child referred for disposition under the first offender program may not be detained in law enforcement custody.

(f) The parent, guardian, or other custodian of the child must receive notice that the child has been referred for disposition under the first offender program. The notice must:

- (1) state the grounds for taking the child into custody;**
- (2) identify the law enforcement officer or agency to which the child was referred;**
- (3) briefly describe the nature of the program; and**
- (4) state that the child's failure to complete the program will result in the child being referred to the juvenile court.**

(g) The child and the parent, guardian, or other custodian of the child must consent to participation by the child in the first offender program.

(h) Disposition under a first offender program may include:

- (1) voluntary restitution by the child or the parent, guardian, or other custodian of the child to the victim of the conduct of the child;**
- (2) voluntary community service restitution by the child;**
- (3) educational, vocational training, counseling, or other rehabilitative services; and**
- (4) periodic reporting by the child to the law enforcement officer or agency to which the child has been referred.**

(i) The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court, unless the child is taken into custody under circumstances described by Subsection (j)(3).

(j) The case of a child referred for disposition under the first offender program shall be referred to juvenile court if:

- (1) the child fails to complete the program;**
- (2) the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or**
- (3) the child completes the program but is taken into custody under Section 52.01 before the 90th day after the date the child completes the program for conduct other than the conduct for which the child was referred to the first offender program.**

(k) A statement made by a child to a person giving advice or supervision or participating in the first offender program may not be used against the child in any proceeding under this title or any criminal proceeding.

(l) The law enforcement agency must report to the juvenile board in December of each year the following:

- (1) the last known address of the child, including the census tract;**
- (2) the gender and ethnicity of the child referred to the program; and**
- (3) the offense committed by the child.**

Added by Acts 1995, 74th Leg., ch. 262, Sec. 19, eff. Jan. 1, 1996. Amended by Acts 1999, 76th Leg., ch. 48, Sec. 2, eff. Sept. 1, 1999.