

**JUVENILES NOW ADULTS:  
YES, THEY STILL NEED OUR  
ATTENTION**

Mark Goodner  
Program Attorney & Deputy Counsel  
TMCEC

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**Overview**

**How do our courts now handle  
young offenders who enter  
adulthood with either  
outstanding judgments or who  
have refused to appear in court?**

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**'The rest of the world is on her side': Group  
raises more than \$91K for honour student  
jailed for truancy who works two jobs to  
support her siblings**



**Diana Tran**

Judge throws out contempt order against Willis honors student

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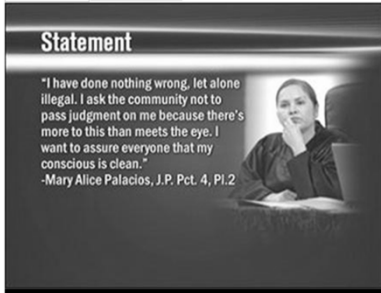
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**JP Mary Alice Palacios gets fine, probation for official oppression**

By Action 4 News Staff  
Posted: 03.22.2011 at 6:29 PM



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### From the Beginning

- **Child/Juvenile – A person who at least 10 years of age and younger than 17 years of age at the time of the offense.**
- **Offenses We Handle:**
  - ✓ Traffic Offenses
  - ✓ Status Alcoholic Beverage Code Offenses
  - ✓ Some Education Code Offenses
  - ✓ Class C Misdemeanors - Penal Code
  - ✓ Health and Safety Code Violations (Tobacco Offenses)
  - ✓ City Ordinances

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### Case is Filed – Now What?

**Child and Parent must be summonsed!**  
**Remember the summons to the Parent must include warning language that states failure of a parent to appear may result in arrest and is a Class C misdemeanor.**

Art 45.0215(d), CCP

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**Two Scenarios**

**# 1: Child (and Parent/Guardian) appears, is convicted, but does not satisfy the judgment.**

**# 2: Child (and Parent/Guardian) simply never show up.**

➤ Remember the definition of "parent" is not just mom or dad anymore. "Parent - includes a person standing in parental relation, managing conservatorship, or custodian" Art. 45.057(a)(3), CCP

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**Scenario # 1**  
**Juvenile Appears**

The Judge **MUST** :

- Take the juvenile's plea in open court
- Provide "Written Notice of Continuing Obligation to Inform Court Of Child's Residence"

Art 45.057(j), CCP

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**Juvenile Contempt**

**Child Fails to Satisfy Judgment:**

- The court must provide notice of contempt hearing.
- The clerk has to prepare notice of contempt hearing and mail it to most recent address on file. Parents must be summonsed for contempt hearing if child is under 17.

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**to Keep or to Transfer**

The court has the option to retain jurisdiction or transfer a child to juvenile court.

- **Retaining Jurisdiction** - the court may hold the child in contempt (fine up to \$500) and/or order DPS to suspend drivers license until child complies with order.
- **Transfer Contempt Charge** - no other action is taken in municipal court. (Note originating charge stays with municipal court)

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**Now an Adult and Still Not Complying**

**A CAPIAS PRO FINE CAN ONLY BE ISSUED IF THE COURT HAS:**

1. Issued a contempt order
2. Determined that a capias pro fine is justified based on:
  - Sophistication/Maturity of Defendant
  - Criminal Record/History of Defendant
  - Likelihood of Discharging Judgment

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**Scenario #2**  
**Juvenile Never Appears**

- A court should issue an order for nonsecure custody - see Art. 45.058 and Art. 45.059, CCP
- Court MAY report to DPS any minor who does not appear before the court and/or fine the child up to \$500

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**Now Adult and Still A No Show**

**The Court MUST:**

**Issue a "Notice of Continuing Obligation to Appear" to the last known address with order to appear.**

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**Mandatory Warning on Notice to Appear**

**"WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE. FAILURE TO APPEAR AS REQUIRED BY THE NOTICE MAY BE AN ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST"**

*\*Must be boldfaced type or capital letters on Appearance Notice.*

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**Notice Works and They Appear**

**Court handles all cases filed against the "Juvenile Now Adult" and disposes of them after charges and rights are explained.**

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**Still a “NO SHOW”**

Failure to obey the notice to appear is a new separate Class C offense committed, not by a child, but rather by an adult.

The consequence of this new “adult” charge is that an arrest warrant can be issued only on the Violation of Continuing Obligation to Appear (VCOA) charge and not on any underlying juvenile cases.

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**Yes – Jail is Now Available**

As an adult, failure to pay fines can result in issuance of a Capias Pro Fine, period.

**This should not come as a “surprise” to young adults.**

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**Any Questions?**



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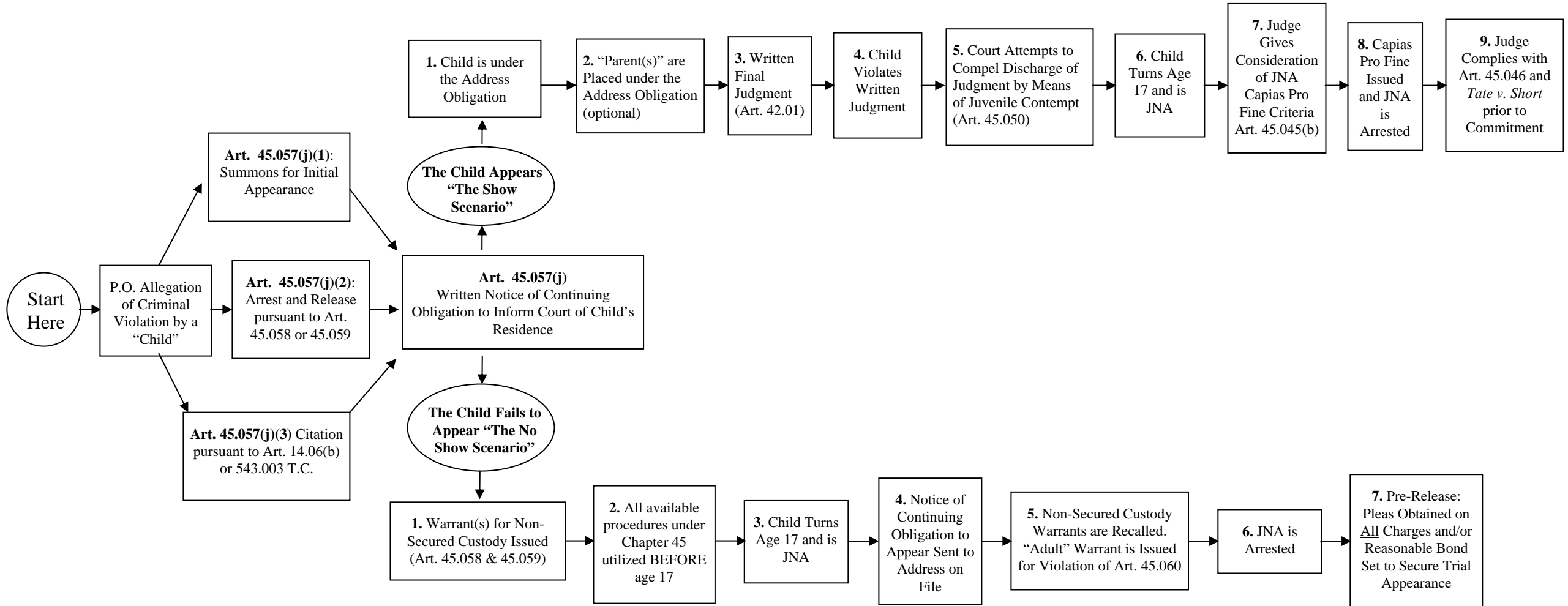
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**Juvenile Now Adult (JNA) Flowchart V.3.0  
TMCEC 2003-2004**



Note: Unless noted otherwise, all references are to the Code of Criminal Procedure

NOTICE OF CONTINUING OBLIGATION TO INFORM COURT OF CHILD'S RESIDENCE (Art. 45.057(h) and (i), C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS § IN THE MUNICIPAL COURT
VS. § CITY OF \_\_\_\_\_
\_\_\_\_\_ § \_\_\_\_\_ COUNTY, TEXAS

NOTICE OF CONTINUING OBLIGATION TO INFORM COURT OF CHILD'S RESIDENCE

THE FOLLOWING NOTICE IS BEING PROVIDED TO (check either or both):

- The Defendant, namely, \_\_\_\_\_, a child
DOB \_\_\_/\_\_\_/\_\_\_ Age: \_\_\_\_\_
The Defendant's Parent (including any person standing in parental relation, a managing conservator, or a custodian),
namely, \_\_\_\_\_
DOB \_\_\_/\_\_\_/\_\_\_ Age: \_\_\_\_\_

ATTENTION: Pursuant to Article 45.057(j), Code of Criminal Procedure, you are being providing written notice of the following sections from Article 45.057:

- (h) A child and parent required to appear before the court have an obligation to provide the court in writing with the current address and residence of the child. The obligation does not end when the child reaches age 17. On or before the seventh day after the date the child or parent changes residence (any place where the child lives or resides for a period of at least 30 days), the child or parent shall notify the court of the current address in the manner directed by the court. A violation of this subsection may result in arrest and is a Class C misdemeanor. The obligation to provide notice terminates on discharge and satisfaction of the judgment or final disposition not requiring a finding of guilt. (Explanation and emphasis added).
(i) If an appellate court accepts an appeal for a trial de novo, the child and parent shall provide the notice under Subsection (h) to the appellate court.

CHANGES IN ADDRESS: Changes in the Defendant's address shall be provided in writing to the Court in the following manner: \_\_\_\_\_

QUESTIONS: For additional information about your obligation you may call or visit the Court.

Municipal Court \_\_\_\_\_
Address \_\_\_\_\_
City, Texas \_\_\_\_\_
Zip Code \_\_\_\_\_
Telephone Number \_\_\_\_\_
Website \_\_\_\_\_

Defendant's Signature \_\_\_\_\_ Parent's Signature \_\_\_\_\_ Judge, Municipal Court
(municipal court seal) City of \_\_\_\_\_
Date \_\_\_\_\_

Note: A written copy of this notice must be provided to each individual placed under the obligation. A separate copy must be retained with the records of the case in the event of Juvenile Now-Adult (JNA) enforcement.



CONTEMPT SHOW CAUSE NOTICE: CHILD (Art. 45.050(c), C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

ORDER TO SHOW CAUSE

Name: \_\_\_\_\_ Offense: \_\_\_\_\_

Address: \_\_\_\_\_

You are hereby ordered to appear before the \_\_\_\_\_ Municipal Court at \_\_\_\_\_ o'clock \_\_\_\_m., on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, to show cause why you failed to abide by the terms of the judgment rendered against you on the \_\_\_\_\_, 20\_\_. Specifically, you are accused of failing to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

WARNING

If you fail to appear pursuant to this order and your contemptuous conduct occurs **prior to your 17<sup>th</sup> birthday**, the Court may have you taken into custody and refer you to Juvenile Court for delinquent conduct. Alternatively, the Court may impose a fine of up to \$500 and/or deny you the ability to possess a Texas driver's license until you fully comply with the Court's orders. If an allegation of contempt stems from an offense occurring on or after September 1, 2003, and if you have already been found guilty, you may be committed to jail upon turning age 17. To avoid such consequences you must fully comply with all of the Court's orders.

(municipal court seal)

\_\_\_\_\_

Judge, Municipal Court

City of \_\_\_\_\_

\_\_\_\_\_ County, Texas

JUDGMENT OF CONTEMPT BY A CHILD (Art. 45.050, C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

JUDGMENT OF CONTEMPT

On the \_\_\_ day of \_\_\_\_\_, 20\_\_, this Court entered a judgment of guilty against \_\_\_\_\_ (name) who was ordered by the Court to: \_\_\_\_\_

After personally receiving in writing the above lawful order from the Court, \_\_\_\_\_ did then and there fail to comply with the order, to wit: \_\_\_\_\_

\_\_\_\_\_ which amounted to a willful and contemptuous refusal to obey the above lawful order. \_\_\_\_\_ was warned by the Court that such failure or refusal was unlawful contempt of court on \_\_\_\_\_.

After receiving a written warning, \_\_\_\_\_ did then and there willfully and contemptuously refuse to obey the lawful order by \_\_\_\_\_ (municipal judge).

The Court finds that a notice of contempt was made to \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, 20\_\_. That \_\_\_\_\_ (did)(did not) attend the show cause hearing on the \_\_\_ day of \_\_\_\_\_, 20\_\_, as set forth in the notice. The Court finds contemnor did not show good cause he he/she should not be held in contempt.

The Court finds that a finding of contempt is necessary to compel obedience of court orders.

The Court hereby refers the child to the appropriate Juvenile Court for delinquent conduct for violating a lawful order of the \_\_\_\_\_ Municipal Court under circumstances that would constitute contempt of Court.

The Court hereby retains jurisdiction of the case and finds that this refusal constitutes contempt of court and that \_\_\_\_\_ is guilty of contempt.

It is hereby **ordered** that \_\_\_\_\_ pay a fine in the amount of \$ \_\_\_\_\_ (an amount not to exceed \$500).

It is hereby **ordered** that the Texas Department of Public Safety suspend the child's driver's license or deny the issuance of a license or permit until receiving notice from this Court that the child has fully complied with the orders of this Court.

Rendered and entered this \_\_\_ day of \_\_\_\_\_, 20\_\_.

(municipal court seal)

\_\_\_\_\_  
 Judge, Municipal Court  
 City of \_\_\_\_\_  
 \_\_\_\_\_ County, Texas

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

**NOTICE OF CONTINUING OBLIGATION TO APPEAR**

**WARNING:** COURT RECORDS REVEAL THAT BEFORE YOUR 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. **AS AN ADULT, YOU ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE.** FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

**YOU ARE HEREBY ORDERED TO APPEAR** before the Municipal Court of the City of \_\_\_\_\_, \_\_\_\_\_ County, Texas at \_\_\_\_\_ o'clock \_\_\_\_ .m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, then and there to answer to the State of Texas for the following misdemeanor(s):

**THE COURT'S ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESS** my official signature this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*(municipal court seal)*

\_\_\_\_\_  
Judge, Municipal Court  
City of \_\_\_\_\_  
\_\_\_\_\_, County, Texas

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**OFFICER'S RETURN**

Came to hand the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ .m., and executed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ .m. by:

- Delivering a copy of this *Notice of Continuing Obligation to Appear* to the Defendant personally.
- Mailing a copy of this *Notice of Continuing Obligation to Appear* to the Defendant's last known address pursuant to Article 45.057 and 45.060, Code of Criminal Procedure.

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Individual Serving Process \_\_\_\_\_  
Date: \_\_\_\_\_

COMPLAINT: VIOLATION OF CONTINUING OBLIGATION TO APPEAR (Art. 45.060, C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

**In the Name and by the Authority of the State of Texas:**

I, the undersigned affiant, do solemnly swear that I have good reason to believe and do believe that \_\_\_\_\_, hereinafter called the Defendant, an individual age 17 or older, on or about the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and before the making and filing of this complaint, in the territorial limits of the City of \_\_\_\_\_, and the State of Texas, the Defendant did then and there intentionally, knowingly, or recklessly fail to appear after being given notice of his/her continuing obligation to appear at a designated time, place, and date to answer the allegations detailed in the notice and after previously being informed of the Defendant's continuing obligation under Article 45.057 and given notice in accord with Article 45.060, Code of Criminal Procedure.

**Against the peace and dignity of the State.**

\_\_\_\_\_  
Affiant

Sworn and subscribed before me by \_\_\_\_\_,  
a credible person, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

*(municipal court seal)*

\_\_\_\_\_  
(Judge) (Clerk) (Deputy Clerk), Municipal Court  
City of \_\_\_\_\_  
\_\_\_\_\_ County, Texas

CLERK'S AFFIDAVIT FOR CAPIAS PRO FINE: JNA

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

I, \_\_\_\_\_, being duly sworn, upon oath, state that I have good reason to believe and do believe that on or about the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_, Defendant, defaulted in payment of a fine and court costs. My belief is based upon the following:

I am the Municipal Court Clerk and custodian of the records for the Municipal Court, City of \_\_\_\_\_, \_\_\_\_\_ County, Texas. On \_\_\_\_\_, 20\_\_\_\_, I personally examined the official records of this Municipal Court. The records indicate that the Defendant in the above styled and numbered cause was charged with the offense of \_\_\_\_\_, and was found guilty of the offense, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The judgment in the above styled case indicate that the Defendant was ordered to make (a payment)(certain prescribed payments) on the fine and costs imposed on the following date(s):

\_\_\_\_\_  
\_\_\_\_\_.

The official court record indicates that the Defendant did not appear on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to make a payment or to request an extension as ordered by the Court. The official court record shows that said Defendant owes \_\_\_\_\_ dollars (\$\_\_\_\_\_) in fine and court costs to satisfy the judgment.

At the time of default, Defendant, a child, was at least 10 years of age and younger than 17 years of age. As required by law, the Court proceeded under Article 45.050, Code of Criminal Procedure, to compel the individual to discharge the judgment. According to court records, the Defendant is of date 17 years of age or older.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Judge) (Clerk) (Deputy Clerk)  
City of \_\_\_\_\_

## Juvenile Now Adult (JNA) Relevant Statutes

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**Art. 45.045. CAPIAS PRO FINE.** (a) If the defendant is not in custody when the judgment is rendered or if the defendant fails to satisfy the judgment according to its terms, the court may order a capias pro fine, as defined by Article 43.015, issued for the defendant's arrest. The capias pro fine shall state the amount of the judgment and sentence, and command the appropriate peace officer to bring the defendant before the court immediately or place the defendant in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately.

(b) A capias pro fine may not be issued for an individual convicted for an offense committed before the individual's 17th birthday unless:

(1) the individual is 17 years of age or older;

(2) the court finds that the issuance of the capias pro fine is justified after considering:

(A) the sophistication and maturity of the individual;

(B) the criminal record and history of the individual; and

(C) the reasonable likelihood of bringing about the discharge of the judgment through the use of procedures and services currently available to the court; and

(3) the court has proceeded under Article 45.050 to compel the individual to discharge the judgment.

(c) This article does not limit the authority of a court to order a child taken into custody under Article 45.058 or 45.059.

**Art. 45.046. COMMITMENT.** (a) When a judgment and sentence have been entered against a defendant and the defendant defaults in the discharge of the judgment, the judge may order the defendant confined in jail until discharged by law if the judge at a hearing makes a written determination that:

(1) the defendant is not indigent and has failed to make a good faith effort to discharge the fine and costs; or

(2) the defendant is indigent and:

(A) has failed to make a good faith effort to discharge the fines and costs under Article 45.049; and

(B) could have discharged the fines and costs under Article 45.049 without experiencing any undue hardship.

(b) A certified copy of the judgment, sentence, and order is sufficient to authorize such confinement.

## Juvenile Now Adult (JNA) Relevant Statutes

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(c) For purposes of a hearing described by Subsection (a), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

**Art. 45.050. FAILURE TO PAY FINE; CONTEMPT: JUVENILES.** (a) In this article, "child" has the meaning assigned by Article 45.058(h).

(b) A justice or municipal court may not order the confinement of a child for:

(1) the failure to pay all or any part of a fine or costs imposed for the conviction of an offense punishable by fine only; or

(2) contempt of another order of a justice or municipal court.

(c) If a child fails to obey an order of a justice or municipal court under circumstances that would constitute contempt of court, the justice or municipal court, after providing notice and an opportunity to be heard, may:

(1) refer the child to the appropriate juvenile court for delinquent conduct for contempt of the justice or municipal court order; or

(2) retain jurisdiction of the case, hold the child in contempt of the justice or municipal court, and order either or both of the following:

(A) that the contemnor pay a fine not to exceed \$500; or

(B) that the Department of Public Safety suspend the contemnor's driver's license or permit or, if the contemnor does not have a license or permit, to deny the issuance of a license or permit to the contemnor until the contemnor fully complies with the orders of the court.

(d) A justice or municipal court may hold a person in contempt and impose a remedy authorized by Subsection (c)(2) if:

(1) the person was convicted for an offense committed before the person's 17th birthday;

(2) the person failed to obey the order while the person was 17 years of age or older; and

(3) the failure to obey occurred under circumstances that constitute contempt of court.

(e) A justice or municipal court may hold a person in contempt and impose a remedy authorized by Subsection (c)(2) if the person, while younger than 17 years of age, engaged in conduct in contempt of an

## Juvenile Now Adult (JNA) Relevant Statutes

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order issued by the justice or municipal court, but contempt proceedings could not be held before the person's 17th birthday.

(f) A court that orders suspension or denial of a driver's license or permit under Subsection (c)(2)(B) shall notify the Department of Public Safety on receiving proof of compliance with the orders of the court.

(g) A justice or municipal court may not refer a child who violates a court order while 17 years of age or older to a juvenile court for delinquency proceedings for contempt of court.

**Art. 45.057. OFFENSES COMMITTED BY JUVENILES.** (a) In this article:

(1) "Child" has the meaning assigned by Article 45.058(h).

(2) "Residence" means any place where the child lives or resides for a period of at least 30 days.

(3) "Parent" includes a person standing in parental relation, a managing conservator, or a custodian.

(b) On a finding by a justice or municipal court that a child committed an offense that the court has jurisdiction of under Article 4.11 or 4.14, the court has jurisdiction to enter an order:

(1) referring the child or the child's parent for services under Section 264.302, Family Code;

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and, if the program involves the expenditure of municipal or county funds, that is approved by the governing body of the municipality or county commissioners court, as applicable, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program; or

(3) requiring that the child's parent do any act or refrain from doing any act that the court determines will increase the likelihood that the child will comply with the orders of the court and that is reasonable and necessary for the welfare of the child, including:

(A) attend a parenting class or parental responsibility program; and

(B) attend the child's school classes or functions.

(c) The justice or municipal court may order the parent, managing conservator, or guardian of a child required to attend a program under Subsection (b) to pay an amount not greater than \$100 to pay for the costs of the program.



## Juvenile Now Adult (JNA) Relevant Statutes

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(d) A justice or municipal court may require a child, parent, managing conservator, or guardian required to attend a program, class, or function under this article to submit proof of attendance to the court.

(e) A justice or municipal court shall endorse on the summons issued to a parent an order to appear personally at the hearing with the child. The summons must include a warning that the failure of the parent to appear may result in arrest and is a Class C misdemeanor.

(f) An order under this article involving a child is enforceable under Article 45.050.

(g) A person commits an offense if the person is a parent, managing conservator, or guardian who fails to attend a hearing under this article after receiving an order under Subsection (e). An offense under this subsection is a Class C misdemeanor.

(h) A child and parent required to appear before the court have an obligation to provide the court in writing with the current address and residence of the child. The obligation does not end when the child reaches age 17. On or before the seventh day after the date the child or parent changes residence, the child or parent shall notify the court of the current address in the manner directed by the court. A violation of this subsection may result in arrest and is a Class C misdemeanor. The obligation to provide notice terminates on discharge and satisfaction of the judgment or final disposition not requiring a finding of guilt.

(i) If an appellate court accepts an appeal for a trial de novo, the child and parent shall provide the notice under Subsection (h) to the appellate court.

(j) The child and parent are entitled to written notice of their obligation under Subsections (h) and (i), which may be satisfied by being given a copy of those subsections by:

(1) the court during their initial appearance before the court;

(2) a peace officer arresting and releasing a child under Article 45.058(a) on release; and

(3) a peace officer that issues a citation under Section 543.003, Transportation Code, or Article 14.06(b) of this code.

(k) It is an affirmative defense to prosecution under Subsection (h) that the child and parent were not informed of their obligation under this article.

(l) Any order under this article is enforceable by the justice or municipal court by contempt.

**Art. 45.058. CHILDREN TAKEN INTO CUSTODY.** (a) A child may be released to the child's parent, guardian, custodian, or other responsible adult as provided by Section 52.02(a)(1), Family Code, if the child is taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.

## Juvenile Now Adult (JNA) Relevant Statutes

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(b) A child described by Subsection (a) must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:

(1) is released under Section 52.02(a)(1), Family Code; or

(2) is taken before a justice or municipal court.

(c) A place of nonsecure custody for children must be an unlocked, multipurpose area. A lobby, office, or interrogation room is suitable if the area is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. A place of nonsecure custody may be a juvenile processing office designated under Section 52.025, Family Code, if the area is not locked when it is used as a place of nonsecure custody.

(d) The following procedures shall be followed in a place of nonsecure custody for children:

(1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;

(2) the child may be held in the nonsecure facility only long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, secure detention facility, justice court, or municipal court;

(3) residential use of the area is prohibited; and

(4) the child shall be under continuous visual supervision by a law enforcement officer or facility staff person during the time the child is in nonsecure custody.

(e) Notwithstanding any other provision of this article, a child may not, under any circumstances, be detained in a place of nonsecure custody for more than six hours.

(f) A child taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14 may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3), Family Code, only if:

(1) the child's non-traffic case is transferred to the juvenile court by a justice or municipal court under Section 51.08(b), Family Code; or

(2) the child is referred to the juvenile court by a justice or municipal court for contempt of court under Article 45.050.

(g) Except as provided by Subsection (g-1), a law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for a traffic offense or an offense punishable by fine only.

## Juvenile Now Adult (JNA) Relevant Statutes

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(g-1) A law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for conduct constituting a violation of Section 49.02, Penal Code, only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult.

(h) In this article, "child" means a person who is:

(1) at least 10 years of age and younger than 17 years of age; and

(2) charged with or convicted of an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.

**Art. 45.059. CHILDREN TAKEN INTO CUSTODY FOR VIOLATION OF JUVENILE CURFEW OR ORDER.** (a) A peace officer taking into custody a person younger than 17 years of age for violation of a juvenile curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay:

(1) release the person to the person's parent, guardian, or custodian;

(2) take the person before a justice or municipal court to answer the charge; or

(3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(b) A juvenile curfew processing office must observe the following procedures:

(1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;

(2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object;

(3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to a parent, guardian, or custodian, or arrangement of transportation to school or court;

(4) a juvenile curfew processing office may not be designated or intended for residential purposes;

(5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and

(6) a person may not be held in a juvenile curfew processing office for more than six hours.

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(c) A place designated under this article as a juvenile curfew processing office is not subject to the approval of the juvenile board having jurisdiction where the governmental entity is located.

**Art. 45.060. UNADJUDICATED CHILDREN, NOW ADULTS; NOTICE ON REACHING AGE OF MAJORITY; OFFENSE.** (a) Except as provided by Articles 45.058 and 45.059, an individual may not be taken into secured custody for offenses alleged to have occurred before the individual's 17th birthday.

(b) On or after an individual's 17th birthday, if the court has used all available procedures under this chapter to secure the individual's appearance to answer allegations made before the individual's 17th birthday, the court may issue a notice of continuing obligation to appear by personal service or by mail to the last known address and residence of the individual. The notice must order the individual to appear at a designated time, place, and date to answer the allegations detailed in the notice.

(c) Failure to appear as ordered by the notice under Subsection (b) is a Class C misdemeanor independent of Section 38.10, Penal Code, and Section 543.003, Transportation Code.

(d) It is an affirmative defense to prosecution under Subsection (c) that the individual was not informed of the individual's obligation under Articles 45.057(h) and (i) or did not receive notice as required by Subsection (b).

(e) A notice of continuing obligation to appear issued under this article must contain the following statement provided in boldfaced type or capital letters:

**"WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE. FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST."**