

---

## Juvenile FTA vs. FTP

---

Presented by  
Margaret Robbins, Program Director  
TMCEC

---

---

---

---

---

---

---

---

### Objectives

- ❖ Explain requirements for appearances
- ❖ Establish procedures for handling juvenile's failure to appear
- ❖ Establish procedures for handling juvenile's failure to pay
- ❖ Properly report FTA and FTP to DPS

---

---

---

---

---

---

---

---

### Appearance

- ❖ Juveniles (all offenses)
  - Under must be in open court with a parent for all proceedings (Article 45.0215, C.C.P.)

---

---

---

---

---

---

---

---

**Appearance**  
**(Article 45.0215, C.C.P.)**

❖ **Parents**

- Required to be in open court with child for all court proceedings
- Court required to summon
- Court may waive presence after diligence used to acquire appearance

---

---

---

---

---

---

---

---

**Appearance**

❖ **Court**

- Gives notice of change of address to:
  - Child
  - Adult

Article 45.057(h),(i), & (j), C.C.P.

---

---

---

---

---

---

---

---

**Juvenile FTA**

- ❖ Court may order DPS to suspend to deny issuance of DL
- ❖ Prosecutor may file FTA
- ❖ Court may issue non-secure custody warrants (Fee of \$35 charged for services of a peace officer)

---

---

---

---

---

---

---

---

## Juvenile FTA

### ❖ Report to DPS

- Submitted on DIC 81 form
- Required to report if traffic offense (Section 521.3452, T.C.)
- May report if offense other than traffic (Section 521.201(8), T.C.)
  - Must be filed within 2 years (Section 521.294(6), T.C.)
- Must file report when case disposed; use DIC 81

---

---

---

---

---

---

---

---

## Juvenile FTA

### ❖ Prosecutor can charge FTA offense

- Charged by complaint
- New case
- Court can notify child
  - Courtesy notice
  - Issue nonsecure custody order (Fee of \$35 charged for services of a peace officer)

---

---

---

---

---

---

---

---

## Juvenile FTA

### ❖ Juvenile's original charge

- Court may issue nonsecure custody order (Fee of \$35 charged for services of a peace officer)
- Child taken into custody; Child:
  - Released to parents;
  - Taken to place of nonsecure custody; or
  - Taken before municipal court

---

---

---

---

---

---

---

---

## Juvenile FTA

- ❖ **Prosecutor can charge parent**
  - Failure to appear with child at hearing
  - Charged by complaint
  - Warrant can be issued for parent
    - Warrant fees apply

---

---

---

---

---

---

---

---

## Juvenile FTA

- ❖ **Juvenile Now Adult (JNA)**  
(Article 45.060, C.C.P.)
  - Age 17
  - Court has used all available procedures under Chapter 45
  - Court issues *Notice of Continuing Obligation to Appear*

---

---

---

---

---

---

---

---

## Juvenile FTA

- ❖ **“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 CONINUING OBILIGATION 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.”**

---

---

---

---

---

---

---

---

**Juvenile FTA**

❖ **Failure to appear as ordered by notice**

- **Affirmative defense to prosecution if**
  - Defendant not notified of obligation to notify court of change of address (Article 45.060(d), C.C.P.)
- **Prosecutor can charge Violation of Continuing Obligation to Appear**
- **Court may issue warrant of arrest**
  - Warrant fees apply

---

---

---

---

---

---

---

---

**Failure to Pay**

---

---

---

---

---

---

---

---

**Juvenile FTP**

❖ **At court appearance**

- **Court should provide CONTEMPT WARNING**

---

---

---

---

---

---

---

---

### Failure to Pay

- ❖ Court sets show cause hearing under Article 45.050, C.C.P.
- ❖ Court may
  - Transfer contempt case to juvenile court
  - Retain jurisdiction

---

---

---

---

---

---

---

---

### Juvenile FTP

- ❖ Court transfers contempt case
  - Clerk sends certified copy to juvenile court
    - Case file
    - All records
    - Order
- ❖ Court may issue nonsecure custody order for charges juvenile failed to pay (Fee of \$35 charged for services of peace officer)

---

---

---

---

---

---

---

---

### Juvenile FTP

- ❖ Court Retains Jurisdiction
  - Court enters judgment of contempt
    - Orders fine of up to \$500 and/or
    - DPS to suspend or deny issuance of driver's license

---

---

---

---

---

---

---

---

### Juvenile FTP

❖ Court may

- Issue nonsecure custody order for underlying offense for which payment owed
- Issue nonsecure custody order for contempt
- Fee of \$35 charged for services of a peace officer

---

---

---

---

---

---

---

---

### Juvenile FTP

❖ DPS Report

- Clerk reports court order
  - DL suspension; or
  - Denial of issuance of DL
- Use DIC 81
- Report final disposition using DIC 81

---

---

---

---

---

---

---

---

### Juvenile FTP

❖ Juvenile Now Adult (JNA)

- Court may issue capias pro fine, if
  - Now Age 17
  - Court finds capias pro fine justified after considering:
    - Sophistication maturity
    - Criminal history
    - Likelihood of bringing discharge of judgment with use of services currently available
  - The court has proceeded under Article 45.050
- Court may issue a nonsecure custody order

---

---

---

---

---

---

---

---

Not the End just  
the Beginning

---

---

---

---

---

---

---

---