

# TEXAS PRACTICE SERIES™

## Volume 29

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### JUVENILE LAW AND PRACTICE

THIRD EDITION

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## DEDICATION

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We have lost some really good lawyers over time, but some have left behind some legacies which will long endure. Lyle Medlock left us much too early. When Lyle was fresh out of law school, I was the Chief of the Juvenile Division of the Dallas County District Attorney's Office. Lyle came in for an interview. He wanted a job and he was particularly interested in children's issues. I asked him where he wanted to be in 5 years. Might he be interested in moving into my job as chief. He said "No. I want to be the district attorney." He did not want my job. He wanted my boss' job. That was the kind of man I was looking to hire. Had Lyle lived, he would have become whatever he wanted to be because he set his sights high, he had intelligence, he had talent, and he worked hard to achieve his goals.

Lyle would have gone far and would have become a great leader. I am proud to have known him and I re-dedicate this book to his memory.

I thank the Good Lord for His guidance and strength in preparing this book.



## PREFACE

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The unfortunate circumstances which threw the Texas Youth Commission into turmoil may have also had a devastating effect on the Texas Juvenile Justice System. When the news broke concerning the abuse perpetrated on the juveniles committed to the commission, the legislature was in session. The unfortunate timing of the revelations possibly led to an over-reaction by the legislature in its attempt to resolve the issues at T.Y.C.

The timing was unfortunate, not only because of the legislative reaction, but because the problem was not uncovered much sooner. Since the early 1980's a primary purpose of the administration at T.Y.C., in my opinion, was to protect the commission from any criticism to almost the exclusion of its primary focus of properly handling juveniles committed to T.Y.C. The apparent ineptness of the commission to provide a positive influence in the rehabilitative process led directly to the passage of the unique determinate sentence statute. The result of the statute was that T.Y.C. was required to keep the juveniles longer and consequently to develop programs which would effectively address the problems each juvenile presented.

Since 1996, when the juvenile justice was totally overhauled, including the determinate sentence statute, the results which define the Texas System have been positive. The programs at T.Y.C. have been nationally recognized as effective interventions. The determinate sentence method of handling all but the most serious offenders has been the envy of the entire country. The discretionary transfer process was retained for the sociopaths and the like but the determinate sentence was a viable alternative to shipping juveniles to the adult system. Judges could use the determinate sentence for sentences of up to 40 years initially utilizing the programs at T.Y.C. with a possible transfer to the Department of Criminal Justice if T.Y.C. failed. The Texas Juvenile Justice System had become the very best system in the United State.

The legislature, now, has potentially harmed the determinate sentence statute. By reducing the age at which T.Y.C. is required to release a juvenile from 21 to 19, the legislature has removed a great advantage of the determinate sentence. A 15 or 16 year old juvenile who receives a determinate sentence, prior to the latest change, could face 5 or 6 years at T.Y.C. if that would be a better solution than prison. Now, the choice between continued placement and transferring to prison might mitigate toward transferring to the adult system and that would defeat the purpose of the determinate sentence.

Hopefully, before the next session, the legislature will more carefully study the situation and make a better informed decision. If the current solution to the abuse problem raises more problems than it

solves, then there is no real solution. There is also a danger that without proper safeguards, problems will arise with the discipline structure at T.Y.C. The “con artists,” and there are many at T.Y.C., have now seen the results of legitimate complaints. In the future, when one of these individuals does not get his way, rest assured that he will charge abuse. Therefore, I hope the administration will address future complaints in a way which will discourage phantom reports:

1. All reports of abuse should be investigated by the Texas Rangers;
2. A polygraph test of the alleged victim should be an integral part of any investigation;
3. Where probable cause is uncovered, the alleged perpetrator should be indicted immediately;
4. The attorney General’s office should assign a special prosecutor to prosecute cases which demonstrate probable cause;

T.Y.C. must be a strong, efficient and competent organization for the Texas Juvenile Justice System to continue its reputation of excellence. The citizens of Texas expect nothing less. A few renegades cannot be allowed to destroy a very necessary component of a very successful legal system. The guilty should be weeded out and delt with to the fullest extent of the law. The legislature should support making T.Y.C. safe for the juveniles committed to it while insisting that T.Y.C. make every reasonable effort to successfully rehabilitate the juveniles entrusted to it.

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## PREAMBLE

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- (c) criticizes existing law; or
- (d) resolves an apparent conflict of authority.

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