



Youth Diversion

Effective January 1, 2025

Purpose

The Texas Youth Diversion and Early Intervention Act introduced during the 88th Legislative Session (H.B. 3186) requires every justice and municipal court to adopt and implement a written, strategized juvenile diversion plan that would allow for the diversion of criminal prosecution for a juvenile who has committed an alleged fine-only misdemeanor other than a traffic offense. This program aims to increase opportunities for early identification of at-risk youth and for redirecting children accused of certain Class C misdemeanors.

Eligibility

Juveniles (at least 10 years of age and younger than 17 years of age) charged with **non-traffic offenses** are eligible for Diversion if it is found that it is in the best interest of the child and promotes long-term safety of the community

Article 45.304 of the Code of Criminal Procedure requires a child to be diverted from formal criminal prosecution with the following exceptions:

- (1) a child is eligible to enter into a diversion agreement only once every 365 days;
- (2) a child is not eligible for diversion if the child has previously had an unsuccessful diversion;
- (3) a child is not eligible for diversion if a diversion is objected to by the prosecutor; and
- (4) a court may not divert a child from criminal prosecution without the written consent of the child and the child's parent.
- (5) child wishes to contest the charge.

Diversion Strategies

The Juvenile and Community Service Coordinator is responsible for assessing the eligibility of each case prior to its appearance on the Juvenile Docket. If a defendant qualifies for Youth Diversion and agrees to participate, the Coordinator will prepare a recommendation outlining proposed corrective strategies for the Judge's review before the docket call.

The Court provides a variety of resources to support Youth Diversion, including but not limited to:

- Teen Court
- Self-Improvement Program
- Substance Abuse Evaluation
- Referral to Service Provider
- Counseling
- Tobacco Education
- Manner/Social Skills
- School Related Programs
- Anger Management
- School Program
- Community-Based Services
- Mentoring
- Course of Treatment Prescribed by a Physician
- Life Skills
- Mental Health Screening
- Attendance
- Clinical Assessment
- Alcohol/Drug Testing
- Leadership Training

Agreement

The diversion agreement shall:

- Be documented in writing.
- Clearly identify the involved parties and outline the responsibilities of both the child and the parent.
- Articulate the terms of the agreement, including specific diversions to be undertaken by the child, in a straightforward manner, and specify any offense or charge being diverted.
- Define potential outcomes or repercussions of both successful and unsuccessful diversions.
- Clarify that participation in the diversion program does not imply guilt, and that a guilty plea is not necessary for participation.
- Specify the duration of the diversion period.
- Include confirmation that both the child and the parent have been informed of the child's rights, including the right to decline diversion, and that the child consents willingly and knowingly to participate.
- Contain written acknowledgment and acceptance of the agreement by both the child and the child's parent.

A copy of the agreement must be provided to the child, parent, Juvenile and Community Services Coordinator, and any person specified by the plan.

Fee

A \$50.00 administrative fee to defray the costs of the diversion may be collected. If the parent is facing hardship and cannot pay, the court may waive this fee after a hearing.

Review Period

The case will be reviewed at the end of the diversion period to determine whether the diversion was successful.

If the child successfully complies with the terms of the diversion agreement, case is to be closed and reported to the court as successful.

If the child does not comply with the terms of the diversion agreement, refer the child to the court for a hearing.

- The court shall conduct a non-adversarial hearing for a child who has not successfully completed the terms of the diversion agreement and is referred to the court.

After the hearing, the court may enter an order:

- Amending or setting aside terms in the diversion agreement.

- Extending the diversion for a period not to exceed one year from the initial start date of the diversion.
- Issue a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of the diversion.
- Find the diversion successful on the basis of substantial compliance.
- Find the diversion unsuccessful and refer the charge to the prosecutor for consideration of refiling.

All records of a diversion pertaining to a child shall be expunged without the requirement of a motion or request, on the child's 18th birthday.