

CALDWELL COUNTY JUSTICE OF THE PEACE, PRECINCT 2 JUVENILE CRIMINAL DIVERSION PROGRAM

YOUTH DIVERSION PLAN

The Texas Youth Diversion and Early Intervention Act [HB 3186], adopted by the 88th Texas Legislature, requires each justice and municipal court, to adopt a written plan that diverts juveniles accused of a misdemeanor punishable by fine only (other than a traffic offense) to diversion services for up to 180 days, rather than face formal criminal prosecution. The statute is effective January 1, 2024, with the Youth Diversion Plans effective January 1, 2025 (Code of Criminal Procedure, Chapter 45, Subchapter E).

Diversion can be an Intermediate Diversion or a Judicial Diversion. An intermediate diversion is offered before charges are filed with the court. A judicial diversion is offered once charges are filed with the court (Art 45.310, C.C.P.). The eligibility requirements and processes below are the same for both diversion types.

DIVERSION PROGRAM ELIGIBILITY

- Juvenile: Person who was at least 10 years old but not yet 17 years old at the time of the offense.
- Offenses:
- a) Class C misdemeanor fine only criminal offense occurring on or after January 1, 2025.
 - b) Civil offenses, traffic offenses, as defined by Ch 521 of the Transportation Code, or any Rules of the Road offense are **NOT** eligible for diversion.
- Previous Diversion:
- a) Juvenile has not been diverted in previous 365 days. The 365 days begins with the date of the previous diversion agreement (Art. 45.304, C.C.P.).
 - b) Juvenile has not had a previous unsuccessful diversion (Art. 45.304, C.C.P.).

Prosecutor: Prosecutor must agree to diversion (Art. 45.304, C.C.P.).

Written Consent: Parent AND juvenile must consent in writing to the terms of the diversion. The signed affidavit will attest that the child has never had a previous unsuccessful diversion in another court, and is not currently under a diversion program in another court.

JUVENILE DIVERSION PROGRAM COORDINATOR (CCP ART. 45.307)

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The role of the Youth Diversion Program Coordinator:

- a) Determine whether the juvenile is eligible for the diversion program.
- b) Recommend appropriate diversion activities and diversion time period.
- c) Work with Judge to present diversion options and agreements to parent(s) and juvenile.
- d) Write Diversion Agreements.
- e) Maintain signed diversion agreements with parent(s) and juvenile.
- f) Monitor diversion activities. Check-in with juvenile and parent(s) regularly.
- g) Report to court on status of diversion activities.
- h) Maintain diversion compliance records by individual juvenile.
- i) Work with judge to determine if diversion was successful or unsuccessful.

- j) Work with court to schedule diversion referral to court, show cause hearing/conference for judge to determine options if diversion is determined to be unsuccessful.
- k) Maintain and report to court general statistics of compliance by diversion strategy, not identified to any specific student (CCP Art. 45.313).

Statistics Example

| Diversion Strategy | Number and Percent Successful | Number and Percent Unsuccessful |
|----------------------------------|-------------------------------|---------------------------------|
| Drug, Alcohol, Tobacco Education | # / % | # / % |
| Counseling | # / % | # / % |
| Educational Program | # / % | # / % |

- a) Work with court to ensure proper expunction of records as required on juvenile’s 18th birthday. All youth diversion records of a juvenile under Subchapter E are required to be expunged, without a motion or request, on the child’s 18th birthday.

CRIMINAL diversion program process

- Step 1: Juvenile is referred to court for misdemeanor criminal offense punishable by fine only. The diversion program does not apply to civil and traffic offenses.
- Step 2: Juvenile Diversion Coordinator reviews case and determines eligibility for judicial diversion program.
- Step 3: Juvenile Diversion Coordinator recommends appropriate diversion strategies and timeline to the judge and the prosecutor.
- Step 4: Court sends Pre-trial conference notification or summons to the juvenile and parent(s) to attend court to discuss the diversion options. If the parent(s) fails to appear for the pre-trial conference a writ of attachment may be ordered. The pre-trial conference may be conducted via zoom.

Step 5: Judge and Juvenile Diversion Coordinator meet with parent(s) and juvenile at pre-trial conference to explain diversion program and strategies. The juvenile and parent(s) decide whether to participate in the diversion program.

Step 6: If the juvenile wishes to contest the charges or does not wish to participate in the diversion program the court proceeds with prosecution (Arts 45.304, 45.310, C.C.P.).

Step 7: If the juvenile and parent(s) agree to participation in the diversion program, a diversion agreement is written and signed. The Agreement will:

- Provide a description of the offense and charge being diverted.
- Identify the time period of the diversion (not to exceed 180 days).
- Describe the specific diversion strategies, activities required and schedule of required activities. For example: have 4 counseling sessions in next 60 days, or complete Invest within 6 weeks, etc.
- Explain that participating in the diversion program is not an admission of guilt and that guilty plea is not required to participate.
- Identify the responsibilities of the juvenile and parent.
- Have measurable, realistic, and reasonable diversion activities considering the circumstances, age and ability of the juvenile.
- Explain the monitoring process.
- Include outcomes of a successful or unsuccessful diversion.
- Be signed by the parent and juvenile (Art. 45.304(e), C.C.P.).

Step 8: A copy of the signed diversion agreement is provided to the parent(s), juvenile, court clerk, juvenile diversion coordinator, prosecutor, and any others involved in the diversion agreement.

Step 9: Once the diversion agreement is signed, the court will notify the prosecutor that the charge is dismissed. The Prosecutor or the court may dismiss the case (Art. 45.308, C.C.P.).

Step 10: The juvenile participates in diversion agreement activities for the time period specified in the agreement.

- Step 11: The Juvenile Diversion Coordinator monitors the diversion activities for the specified period.
- Step 12: Once the initial time period of the diversion has expired, the Juvenile Diversion Coordinator works with the judge to determine if the diversion is successful or unsuccessful.
- Step 13:
- a. If the judge determines that the diversion is successful, the agreement is closed and reported to the court as successful (Art. 45309(c), 45310(d), C.C.P.). The Juvenile Diversion Coordinator will notify the juvenile and parent(s) of the successful completion. Records are expunged when the juvenile turns 18 years of age.
 - b. If the judge determines that the diversion is unsuccessful, the Juvenile Diversion Coordinator works with court to set up a non-confrontational conference (Arts. 45309(d), 45.310(e), 45.311(c), C.C.P.). At the conference, the judge may:
 - Amend the diversion agreement terms or strategies;
 - Extend the diversion time period for up to 1 year from the initial start date.
 - Continue the hearing for up to 60 days;
 - Order the parent to perform any specific acts or refrains from any acts to ensure the juvenile complies with the agreement, and/or
 - Refer the case back to the prosecutor for refile of charges as the statute of limitations is tolled during the diversion period.
- Step 14: If a juvenile opts to not participate in a diversion program and is later convicted at trial, a judge may offer the diversion option at the time of the conviction. The juvenile must be eligible for the diversion program (Arts. 45.310, 45.041(a-2), C.C.P.). If the juvenile successfully completes the diversion activities, the conviction is not applied (Arts. 45.310, 45.041(a-2), C.C.P.). Return to Step 2.
- Step 15: All youth diversion records of a juvenile under Subchapter E are required to be expunged, without a motion or request, on the child's 18th birthday (Art. 45.313, C.C.P.).

DIVERSION PROGRAM STRATEGIES (ART 45.306, C.C.P.)

The Diversion Agreement may include any combination of the strategies listed below:

- a) Educational Programs (Juvenile Probation Department);
 - 1) Alcohol, Tobacco, or Drug Education (Juvenile Probation Department);
 - 2) Rehabilitation;
 - 3) Alcohol/drug assessment and testing (Juvenile Probation Department);
 - 4) Self-improvement programs such as anger management programs, conflict resolution classes, etc. (Juvenile Probation Department)
 - 5) At-risk youth services;
 - 6) Work or job skills training;
 - 7) Alternative academic programs (including GED prep);
 - 8) Community-based services;
 - 9) Mental health screening and clinical assessment;
 - 10) Compliance with treatment prescribed by health professional;
 - 11) Counseling;
 - 12) Mentoring services;
 - 13) Restitution not to exceed \$100 (property offenses under Title 7 of the Penal Code);
 - 14) 20 hours of community services; and/or.
 - 15) Any other strategies deemed appropriate by the Juvenile Diversion Coordinator.

Courts may enter into agreements with Community Service Agencies to provide diversion strategy services.

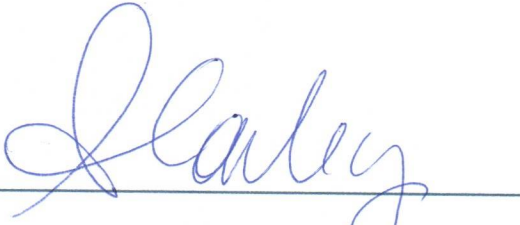
ADDITIONAL INFORMATION

The court may collect from the juvenile's parent a \$50.00 administrative fee to defray the cost of the diversion agreement. This fee may be waived if the juvenile/parent is indigent (Art. 45.312, C.C.P.).

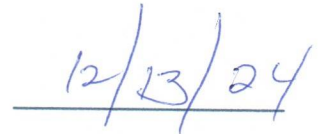
All records generated under Subchapter E, other than statistical records, are confidential under Article 45.0217 (Confidential Records Relating to Charges Against or Conviction of a Child).

Juvenile Criminal Diversion Plan for each court must be in writing and be available for public inspection (Art 45.306, C.C.P.).

In years ending in 0 or 5, Justices of the Peace must complete a relevant two hour course related to youth diversion and issues related to child welfare.



The Honorable Judge Shanna Conley



Date