

YOUTH DIVERSION PLAN JUSTICE OF THE PEACE, PRECINCT ONE GILLESPIE COUNTY, TEXAS



Youth Diversion Coordinator Contact Information

Karmin Walker, Court Coordinator, from Justice Court, Precinct One.

kwalker@gillespiecounty.org | 830-307-6193

According to House Bill 3186 and Article 45.307(10), each court must designate a youth diversion coordinator to assist with a youth diversion plan that will be kept on file for public inspection in each justice and municipal court, but also to assist with the following:

- 1) Managing referrals
- 2) Maintaining records and active diversion agreements
- 3) Monitoring active diversion cases for a maximum of 180 days
- 4) Employing a diversion strategy
- 5) Coordinating expunctions

These duties may be performed by:

- 1) A court administrator or court clerk
- 2) An individual that provides juvenile case manager services
- 3) A community supervision or corrections department; including a juvenile probation department
- 4) A county or municipal employee*
- 5) A qualified non-profit organization as determined by the court

**The Justice of the Peace Court, Precinct One for Gillespie County has the authority to designate the Court Coordinator/Court Clerk as a Youth Diversion/Youth Diversion Clerk.*

Effective Date of Plan: January 1, 2025

Benefits of Diversion

The primary intended outcome of a juvenile diversion program is the prevention of recidivism and additional contact with law enforcement; however, these programs can offer many benefits including:

- 1) Diversion cases will be dismissed upon completion of the program.
- 2) An automatic expunction will occur upon the participant's 18th birthday without the requirement of a motion or request.
- 3) There will not be a conviction or prosecution on record.
- 4) A participant will not enter a plea.
- 5) A diversion program can empower and unlock hidden potential within the juvenile, when given the opportunity to do so.
- 6) Improved relationships can occur between youth and their family, law enforcement, and the community.
- 7) Youth will be provided with opportunities to connect to various services within the community.
- 8) Youth diversion can help produce an economic benefit by being more cost effective than standard processing.

Purpose

The purpose of this Youth Diversion Plan is to protect and preserve the interests of Texas youth who have run afoul of our laws by providing interventions and strategies designed to assist the troubled youth and to keep his/her record clean and his/her future bright with opportunity to successfully integrate into society without the burdens of their youth raising barriers. Additionally, this plan should help to: (1) Reduce recidivism and the occurrence of problem behaviors through intervention without having to criminally adjudicate children in justice and municipal courts; (2) Identify at-risk youth, including youth and mental health needs, substance use disorders, or intellectual and developmental disabilities and, where appropriate, make referral to early youth and intervention services under Subchapter D, Chapter 264 of the Family Code; (3) Authorize diversions of children charged with certain offenses punishable by imposition of a fine from criminal adjudication that emphasize accountability and responsibility of the parent and the child for the child's conduct while also promoting community safety; AND (4) Increase collaboration between governmental, educational, and non-profit organizations in devising local and regional diversion strategies in rural and urban counties and municipalities.

A copy of this Youth Diversion Plan shall be maintained on file for public purposes.

Type of Diversion offered in Justice Court Precinct One, Gillespie County, Texas

Judicial Diversion: If a charge involving a juvenile who is eligible for diversion is filed with a court, a judge or justice shall divert the case in one of two ways:

- 1) If the juvenile does not contest the charge, a judge or justice must divert the case without the juvenile having to enter a plea.
- 2) If the juvenile contests the charge, a judge or justice must divert the case at the conclusion of trial on a finding of guilt without entering a judgment of conviction.

The terms of the diversion agreement would have to be in writing and upon successful completion, the case would be closed and reported as successful by the Youth Diversion Coordinator. If the juvenile is not compliant with the diversion program, the case would be referred to the court for a hearing.

Plan Qualifications

A youth must be 17 years of age or younger at the time they allegedly committed the nontraffic offense, and shall not have had a prior unsuccessful Diversion Plan. The youth must not have signed a Diversion Agreement within 12 months prior to the commencement of a new Agreement.

Overview of Plan

When a youth allegedly runs afoul of the law and charges are leveled against that youth, this Plan is designed to intervene to provide strategies and services which may provide helpful assistance in the hopes of averting further interactions with the legal system. The Plan will be specific to each individual youth. The Plan will be memorialized in a written agreement which must be signed by the youth and a parent. The Agreement will divert and halt the prosecution of charges which have been leveled against the youth and the pending charges will be dismissed at the onset. The Agreement will be for a set time as determined by the Youth Diversion Coordinators, but will be no longer than 180 days. A copy of the executed Agreement must be provided to the child, the parent, the clerk of the court, the Youth Diversion Coordinators, and any other person specified in the executed Agreement.

The Agreement will be monitored by the Youth Diversion Coordinators who will keep in contact with the service providers, the youth, and/or the parents of the youth, to verify that the requirements of the Agreement are being administered and followed. This will include the Youth Diversion Coordinators taking an active role in communicating with any providers, the youth and the parent.

Participation in this Plan and execution of the Agreement is not an admission of any guilt and no plea is required to participate. Participation is also voluntary and the child and the parent will be notified of the child's rights, including the right to refuse the Diversion Plan. The child must knowingly and voluntarily consent to participate in the Plan, and the signatures of both the child and the parent are required to invoke the rights under this Plan.

Possible Outcomes

A successful completion of the Agreement will bar the charges leveled against the youth being revived and prosecuted. The records associated with the youth will be automatically expunged when the youth turns 18 years of age. The Court may, at its discretion, amend or set aside certain terms to the Agreement, may extend the diversion period not to exceed one year from the initial start date, order the parent to perform any reasonable act or refrain from any reasonable act, issue an order of contempt against the parent/guardian(s), continue any scheduled hearing for up to 60 days, and make a determination that the diversion was successful or unsuccessful.

An unsuccessful completion of the Plan may result in the case being referred for prosecution. The Court maintains jurisdiction over the case for the period of the Agreement.

Plan Records

The Youth Diversion Coordinators shall maintain records on all Plans for three years, and shall keep a permanent file on all successful and unsuccessful Plans.

Plan Strategies

The framework behind a juvenile diversion plan is designed to highlight areas that facilitate growth within the participant. Primary factors to consider while developing a plan are ensuring that it is practical, safe, attainable, and in the best interests of the child. While a specific model and strategy may be beneficial to one participant, it may not be beneficial to another. Experts believe that early identification and intervention can lower relapses, system involvement, and give youth access to needed services.

Diversion tasks can include:

- 1) Community service for a non-profit organization (not to exceed 20 total hours)
- 2) Skill building and life skills training
- 3) Self-improvement or leadership programs
- 4) Work/job skills training

- 5) Drug or alcohol testing
- 6) Youth coping and sensitivity training
- 7) Restitution for property offenses equal to or less than \$100.00
- 8) Apology letter writing
- 9) Alcohol or tobacco education programs
- 10) Drug court observation
- 11) Professional counseling
- 12) Caregiving for a non-family member
- 13) Professional development
- 14) Peer mentoring
- 15) Criminal/victim awareness
- 16) Required school attendance
- 17) Educational assistance and counseling
- 18) Lunch detention or lunch tutorials
- 19) GED courses or completing the GED
- 20) Saturday school
- 21) Teen leadership program
- 22) No texting at night (parent must submit cell phone records as proof)
- 23) No video games on school nights
- 24) Remove TV, cell phone, video games, internet access from child's room
- 25) Ankle bracelet monitoring device
- 26) Home visits
- 27) Any other task to be performed by the child or parent deemed reasonable by the court

What is the Justice Court, Precinct One Diversion Plan?

- 1) Youth receives a ticket from a law enforcement officer;
- 2) The law enforcement officer files the ticket with the court;
- 3) The Court Coordinator/Youth Diversion Coordinator will review the ticket prior to filing, and will then divert the ticket to the County Attorney for notification to offer Diversion Program;
 - a. Defendants are eligible for Diversion if they:
 - i. Are under 17 years of age **at the time of the offense**;
 - ii. Have not been diverted in previous 365 days;
 - iii. Has **never** had an unsuccessful diversion;
 - iv. No objection from the prosecutor;
 - v. The charge the defendant was cited with was not a traffic violation; AND
 - vi. Written consent from the youth and their parent(s).
- 4) If the County Attorney does not consent to the Diversion Program for this individual:

- a. The case will proceed as normal with Court Coordinator/Youth Diversion Coordinator, which means:
 - i. A Plea Hearing will be set with the youth and their parent;
 - ii. The Judge can determine what consequences are necessary based on their plea and charge;
 - iii. This charge will go on their record, and can be expunged by Motioning the Court for an expunction at their 21st Birthday.
- 5) If the County Attorney consents to the Diversion Program for this individual:
 - a. An intake appointment will be set up between the Youth Diversion Coordinator/Court Coordinator, youth and the parent to go over liability forms, program expectations, goals, and questionnaires;
 - b. Questionnaire for Early Identification and/or Advanced Questionnaire will be given to the youth, and their parent to identify Mental Health Issues, Drug Abuse issues, and remorse for their actions (these will be filled out in front of the Youth Diversion Coordinator/Court Coordinator at in-take);
 - c. The court will set a Referral Hearing for the youth;
 - d. Diversion Strategy will be determined in court based upon the goals gone over during in-take (see Plan Strategies above for available strategies for diversion—note: the Judge can determine how many of the strategies are necessary for this plan or order additional strategies upon discretion);
 - e. If the Diversion is agreed upon by all parties, a \$50.00 fee will be assessed for cost of Diversion program—**this fee can only be paid by the parent.**
- 6) The Court Coordinator/Youth Diversion Coordinator will document the agreed upon Diversion Strategy developed in court with the Judge, not to exceed 180 days;
 - a. The Diversion Agreement must be in writing, identify period of diversion (not to exceed 180 days), outline the responsibilities of the child and of the parents, contain written consent from youth and parents—parents order is enforceable by contempt, must be measurable, realistic, and reasonable, possible outcomes of successful/unsuccessful diversions, explanation that participating is not an admission of guilt and that a guilty plea is not required to participate, explanation of monitoring process, verification that parents and child was notified of their rights and consent to the diversion.
- 7) The youth and parent(s) will sign the agreement, and it will be enforced by the Youth Diversion Coordinator (for parents it will be enforced by contempt);
- 8) The Youth Diversion Coordinator/Court Coordinator will have monthly check-in appointments with the youth and their parent(s) during the course of their agreement to ensure that the goals and requirements are being met (any missed appointments will be forwarded to the Judge for review, and could result in an unsuccessful diversion);

- 9) Upon completion of the time period set for the Diversion Program the Court Coordinator/Youth Diversion Coordinator will set a Referral Hearing for the youth and their parent to attend;
- 10) The Judge will determine if the Diversion Program was completed thoroughly;
 - a. If the diversion program was completed successfully, and the charge was filed in court, it must be dismissed.
 - b. If the diversion program was **not** completed successfully the Judge can:
 - i. Amend or set aside diversion agreement terms;
 - ii. Extend the diversion period for a period not to exceed one year from the initial start date;
 - iii. Continuing the hearing for up to 60 days;
 - iv. Ordering the parent to perform any act or refrain from any act;
 - v. Issuing an order of contempt against the parent(s)/guardian(s); AND/OR
 - vi. Referred for criminal filing under previous juvenile criminal law.
- 11) The Court Coordinator/Youth Diversion Coordinator will maintain records (statistics) on diversion strategies and success/failure rates.
 - a. Can be done in a spreadsheet, outside of Record Management System; and
 - b. Has to be available upon request by the state (these are not public records, and cannot even be given to military recruiters).
- 12) All records of diversions will be expunged on the child's 18th birthday, even without a court order or a motion from the youth—even if the diversion was unsuccessful.

Terms and Definitions Defined

Term: Charge | 45.301(1)

Definition: A formal or informal allegation of an offense, including a citation, written promise to appear, complaint, or pending complaint.

Term: Child | 45.058(h-1)

Definition: A person at least 10 years of age and younger than 17 years of age.

Term: Court | 45.301(4)

Definition: A justice court, municipal court, or other court subject to this chapter.

Term: Diversion | 45.301(4)

Definition: An intervention strategy that redirects a child from formal criminal prosecution and holds the child accountable for the child's actions.

Term: Diversion Agreement | 45.308(a)

Definition: Identifies the parties to the agreement and the responsibilities of the child and parent to ensure their meaningful participation in a diversion.

Term: Diversion Plan | 45.306

Definition: A written plan that describes the types of strategies that will be used to implement youth diversion.

Term: Offense | 45.301(5)

Definition: A misdemeanor punishable by fine only, other than traffic offense.

Term: Parent | 45.057(3)

Definition: Includes a person standing in parental relation, a managing conservator, or a custodian.

Term: Youth Diversion Coordinator | 45.307

Definition: A written plan that describes the types of strategies that will be used to implement youth diversion.

Definitions of terms are sourced directly from the specific Article within the Code of Criminal Procedure where they are defined.
