

Lavaca County Justice of Peace, Precinct One Court Youth Diversion Program

All words and phrases contained herein shall be construed according to definitions in Article 45 of the Texas Code of Criminal Procedure, where provided.

I. Objective.

The purpose of this program and its related procedures are to:

- A. Reduce recidivism and the occurrence of at-risk behavior of juveniles through intervention without criminal adjudication.
- B. Identify at risk juveniles utilizing the Social Services Approach.
- C. Divert instances of deviant behavior from criminal adjudication with an emphasis on therapeutic strategies for accountability and responsibility of the child and the child's parent(s), while promoting public safety and order.
- D. Collaborate with all community resources available to achieve these objectives.

II. Applicability

This program will apply to any behavior that could be formally charged as a criminal offense against a child within the jurisdiction of this Court. Nothing in these procedures precludes the State from referring a child as a *Child in Need of Supervision* under *Title 3 of the Texas Family Code*, or a *permissive or mandatory waiver of jurisdiction and transfer* under *Section 51.08 of the Texas Family Code*.

III. Referral for Diversion Program

Non-School related behavior that could be formally charged as a criminal offense within the jurisdiction of this Court may be submitted by referral, citation, or complaint as required by law. School related offenses shall be referred to the Court by a School Administrator. The referral shall include all school records requested by the County Prosecutor, Youth Diversion Coordinator, or Juvenile Case Manager and any disciplinary history and measures.

IV. Intake and Eligibility

Cases shall be reviewed by the Youth Diversion Coordinator or Juvenile Case Manager to determine eligibility for the diversion program. Participation in the program requires written consent of the child and the child's parent. A child is eligible for the diversion program once every 365 days, but only if the child has not had a prior diversion plan determined to have been "unsuccessful." A child is not eligible if the Prosecutor objects to the diversion program.

V. Diversion Evaluation

The Prosecutor and Youth Diversion Coordinator or Juvenile Case Manager shall collaborate to determine eligibility and devise a strategy to correct the specific behavior and achieve the objectives of the program, utilizing available resources. Resources may include, but are not limited to, Teen Court, school related disciplinary and educational measures, drug education program, an alcohol or tobacco awareness program, a rehabilitation program, self-improvement strategies or classes, leadership training, manners/social skills, violence avoidance,

anger management, dispute resolution, mental health evaluations and recommended services, and any other services that are determined to be necessary to improve empathy, the parent-child relationship, or life skills. *See* Code of Crim. Pro. Art. 45.305 for additional information.

VI. Intermediate Diversion Intake and Implementation

The Youth Diversion Coordinator or Juvenile Case Manager shall review all the information available and applicable to the child and employ a case plan utilizing a strategy suitable for the rehabilitation of the child. *See* Appendix A for a description of strategies and programs that may be utilized. Once a preliminary case plan is recommended, the Youth Diversion Coordinator or Juvenile Case Manager shall meet with the parent and child to review the proposed case plan, evaluate the parent-child relationship, consider parent input, or require the parent to participate in the case plan if appropriate. The diversion plan may be for a reasonable period not to exceed 180 days. Upon successful completion, the case shall be closed and reported as successful to the Court.

VII. Diversion by Judge

The Judge shall divert a case if a charge involving a child who is eligible for diversion is filed with the court. The Judge shall divert the case without a plea if the child does not contest the charge or at the conclusion of trial on a finding of guilt without entering a judgement of conviction. The diversion plan shall be in writing and include any of the diversion strategies provided for in this Order. The plan will be for a reasonable period not to exceed 180 days. Upon successful completion, the case shall be closed and reported as successful to the Court. If the child is unsuccessful in completion of the diversion plan, the child will be referred to a court for a hearing consistent with article 45.311 of the Code of Criminal Procedures.

VIII. Diversion Agreement

There shall be a written binding Diversion Agreement that contains the components required in article 45.308 of the Texas Code of Criminal Procedure. The objectives shall a.) consider the child's circumstances, b.) be reasonable and rationally relevant to the alleged conduct, c.) be measurable and realistic to accomplish, and d.) be in the best interest of the child and the long-term safety of the community.

The written Agreement shall contain the following components as required by law:

- A. An identification of the alleged conduct and diversion agreement terms in clear and concise language understandable to the child.
- B. Positive and negative consequences of successful completion of, or failure to comply with, the terms of diversion agreement.
- C. An explanation that a guilty plea is not required, and that participation is not an admission of guilt

- D. An explanation of the review and monitoring process of compliance with the diversion agreement.
- E. The agreed length of the diversion plan.
- F. Assessment of administrative fee, if determined to be appropriate for the case.
- G. Signatures of the child and parent indicating their consent to the diversion plan, with the understanding that diversion is optional.
- H. Notification that the child and or the child's parent may terminate the diversion at any time, acknowledgement that upon termination, the case will be referred to court.

IX. Referral to Court Prosecutor Objection, Decline Intermediate Diversion or Unsuccessful Completion

If the Prosecutor objects, the child, or parent decline(s), or the child does not successfully complete the Intermediate Diversion Program, the case shall be set for a non- adversarial hearing before the assigned Juvenile Judge. The Judge will confer with all interested parties to determine what is in the best interest of the child, what protects the long-term safety of the community, and whether to:

- A. Declare the diversion unsuccessful; and or
- B. Amend or set aside terms in the Diversion Agreement.
- C. Extend the diversion period not to exceed one year from the initial start date.
- D. Continue the hearing for not more than sixty (60) days to allow additional time for compliance with the terms of the agreement.
- E. Require the parent(s) to perform any act, or refrain from performing any act, which the Court determines will increase the likelihood the child will successfully complete the diversion and comply with any order of the Court that is reasonable and necessary for the welfare of the child.
- F. Find substantial compliance and successful completion.
- G. Refer the case to the prosecutor for filing.
- H. Transfer the case to Juvenile Court for an alleged Child in Need Supervision under Section 51.08 of the Texas Family Code.

X. Court Proceedings

If the diversion is determined unsuccessful, or the child and/or parent declines the diversion plan, upon filing of a complaint by the Prosecutor the case shall be set on a regular Juvenile Docket and will proceed to disposition in accordance with the Texas Code of Criminal Procedures.

The Diversion Program components* consist of:

- A. Case Management/Case Plan. Required regular meetings with Juvenile Case Manager and/or Prosecutor, determined on a case-by-case basis.
- B. Tobacco Awareness Course - Mandatory for tobacco offenses.
- C. Alcohol Awareness Course – Mandatory for alcohol offenses.
- D. Drug Education Course – Mandatory for drug related offenses.
- E. Counseling resources - The Youth Diversion Program Coordinator will provide a list of counseling resources, should a child be ordered to complete counseling services. The provider list will include information for mental health care in areas such as addiction and recovery, child and adolescents, marriage and family, and anxiety and depression.
- F. Online Educational classes – Online courses, if available.
- G. Tutoring and/or in school tutorials – May include school visits, where deemed appropriate and necessary.

Parents also receive:

- Face-to-face meetings with the Youth Diversion Coordinator.
- Educational materials.
- A written copy of the youth diversion action plan and agreement.
- Access to helpline for children addicted to nicotine.

** This is not an exhaustive list of program components. Other resources may be added, or existing components removed consistent with applicable law, when considered appropriate by the Judge and Youth Diversion Program Coordinator.*