



Houston Municipal Courts Youth Diversion Plan

Effective January 1, 2025



I. Description

As provided by Chapter 45A, Subchapter “K” of the Texas Code of Criminal Procedure, and contingent on eligibility, a child shall be diverted from formal criminal prosecution through an established youth diversion program. Youth diversion is applicable for a child who is alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only, other than a traffic offense (Article 45A.502 Code of Criminal Procedure). A child’s participation is voluntary, requires the child to accept responsibility in the alleged conduct, and requires written consent from both the child and the parent in a diversion agreement. The youth diversion agreement provides the child with an opportunity to complete a diversion plan under realistic and reasonable terms set by the judge in collaboration with the Youth Diversion Coordinator (YDC) and Juvenile Case Manager (JCM). Terms may include a combination of appropriate conditions such as Teen Court, community service, an educational program, counseling, letters of apology, restitution, and any other appropriate conditions. If the child satisfies all the requirements of their diversion agreement, there will be no further proceedings related to the case.

If the child withdraws or does not successfully complete the diversion agreement, the judge will conduct a non-adversarial hearing to determine if the diversion was unsuccessful. If it is determined the diversion measures were unsuccessful, the charge may be filed for criminal prosecution, with the prosecutor’s approval. If it is determined that more time is necessary for the child to successfully complete diversion, a diversion agreement can be extended and/or adjusted not to exceed 180 days (Article 45A.510(b)). A judge, however, may extend up to one year from the initial start date of the diversion after a non-adversarial hearing (Article 45A.511(c)).

II. Objective

The purpose of this program and its procedures is to:

- A. Reduce recidivism and mitigate at-risk behaviors through early intervention, without the need for criminal adjudication of children in justice and municipal courts.
- B. Identify at-risk youth utilizing a social service approach.
- C. Divert instances of deviant behavior from criminal prosecution by emphasizing therapeutic strategies that encourage accountability and responsibility in both the child and their parent or guardian while promoting public safety and order.
- D. Collaborate with all community resources available to achieve the objectives.

III. Eligibility (*Article 45A.504 Code of Criminal Procedure*)

A child may enter into a diversion agreement once every 12 months. After a child accepts responsibility for the charge alleging engagement in conduct that constitutes a misdemeanor (non-traffic) punishable by fine only, they must be diverted from formal criminal prosecution, unless:

- A. The child has previously had an unsuccessful diversion under Subchapter K.
- B. The prosecutor objects to the child entering into a diversion agreement.
- C. The child's parent does not provide written consent for the child to participate.
- D. The child does not accept the terms of the diversion.

IV. Diversion Evaluation, Intake, and Implementation

The Judge, Prosecutor, YDC, and JCM will review citations issued to individuals under 17 years of age assigned to the City of Houston Municipal Courts. If the child is eligible for diversion, a case plan will be developed using a strategy tailored to support the child's rehabilitation.

Once eligibility has been established, JCM will contact the parent and child. If the parent and child consent to the child's participation, a JCM will meet with them prior to the initial court appearance to review the proposed diversion agreement. During this meeting, the JCM will evaluate the parent-child relationship, consider parental input, or require the parent to participate in the case plan if appropriate.

V. Diversion Agreement

A written, binding diversion agreement shall be executed in accordance with Articles 45A.509 and 45A.510 of the Texas Code of Criminal Procedure. This agreement must clearly outline the responsibilities of all parties, including the child and the child's parent or guardian, to ensure meaningful participation in the diversion process. The objectives of the agreement shall:

- A. Consider the child's circumstances;
- B. Be rationally related to the alleged conduct;
- C. Be realistic to accomplish; and
- D. Be in the best interest of the child and safety of the community.

The written agreement must 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 the 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 for compliance with the diversion agreement.
- E. The agreed length of the diversion agreement plan.
- F. Signatures of the child and parent indicating their voluntary consent to diversion, acknowledging that participation is optional and that either party may terminate the diversion at any time with the understanding that upon termination, the case will be referred to the court for further proceedings. (Note: If the child accepts the terms of the agreement the charge shall be dismissed by the court.)

VI. Participation and Case Management

The JCM will monitor the child's compliance throughout the child's participation in the diversion program. A YDC and JCM will also perform case management duties and provide administrative support to the court. If the child satisfies all the requirements of their diversion agreement, there will be no further proceedings related to the case. If it is determined that additional time is needed for the child to successfully complete the program, the diversion agreement may be extended. If the child withdraws or does not successfully complete the diversion agreement, the case shall be scheduled for a non-adversarial hearing before a judge to determine whether the diversion was unsuccessful.

VII. Not Eligible for Diversion, Prosecutor Objection, Declined Participation by Child or Parent, or Unsuccessful Completion

If a child is not eligible for diversion, the prosecutor objects, or the child and/or parent decline participation, the case will proceed with formal prosecution.

If a child is not compliant with the diversion agreement, the case shall be scheduled for a non-adversarial hearing before a judge. The judge will confer with all interested parties to determine what is in the best interest of the child, what best serves 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 of the diversion agreement.
- D. Grant a continuance of 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 court order 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 consideration of refiling.
 - The statute of limitations is tolled during the diversion period for the purposes of the prosecutor refiling the charge (Article 45A.511(f)).
- H. Transfer the case to the Juvenile Court for an alleged Child in Need of Supervision (CINS) under Section 51.08 of the Texas Family Code.

VIII. Judicial Diversion

Upon the filing of a charge against a child for a non-traffic, fine-only offense, the case is reviewed by Judge, Prosecutor, YDC, and JCM to determine the child's eligibility for diversion.

A child who is eligible for diversion and does not contest the charge may not be required to enter a plea in the criminal case to be offered diversion under this Plan. At the judge's discretion, the judge or, when available, a JCM will present the terms of diversion to the child and parent, if eligible, and obtain all required signatures. The diversion period shall not exceed 180 days.

The terms of the diversion agreement must be documented in writing and may incorporate any of the strategies outlined in Article 45A.505. Upon execution of the diversion agreement, the criminal case will be dismissed immediately, and there is no longer a criminal case pending.

If the child is ineligible for diversion, the child or parent declines diversion, or the prosecutor objects, the case will proceed in accordance with Chapter 45A of the Code of Criminal Procedure. In the event the child is convicted, whether by plea or finding of guilt, nothing in this Plan limits the judge's authority to impose the full range of punishment, including deferred disposition.

Upon successful completion of the diversion agreement, the case shall be closed and reported to the court as successfully resolved. If the child fails to comply with the terms of the diversion agreement, the case shall be referred to the court for a non-adversarial hearing pursuant to Article 45A.511.

IX. Expunction

All records of a diversion pertaining to a child under Subchapter K shall be expunged without the requirement of a motion or request on the child's 18th birthday pursuant to Article 45A.513.