



**Youth Diversion Plan  
Dallas County  
Justice of the Peace - Precinct 3, Place 1**

**Judge Adam M. Swartz  
Youth Diversion Coordinator: Cristan Shamburger**

*In Compliance with Texas Youth Diversion & Early Intervention Act – HB3186*

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# *Youth Diversion Plan*

## Overview

As provided by Chapter 45, subchapter “E” 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.

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 to enter into a Diversion Agreement.

*(See Article 45.302 Code of Criminal Procedure).*

## Eligibility (Article 45.3.04 Code of Criminal Procedure)

A child may enter into a Diversion Agreement once every 365 days.

After a child accepts responsibility for the charge that is alleging engagement in conduct that constitutes a misdemeanor punishable by fine only (other than a traffic offense), the child must be diverted from formal criminal prosecution, unless:

- The child has previously had an unsuccessful diversion under Subchapter E;
- Entering into Diversion Agreement is objected to by the prosecutor; **or**
- The child’s parent does not provide written consent for the child to participate.

## Duration and Strategy

Terms of diversion will be determined on a case-by-case basis and may include a condition or a combination of conditions. Examples include, but are not limited to:

- community service,
- an educational program,
- counseling,
- letters of apology, **and/or**
- restitution.

The child’s compliance with the diversion plan will be monitored by the Youth Diversion Coordinator, who will provide regular reports to the prosecutor and the Judge.

If the child satisfies all the requirements of their diversion agreement, there will be no further proceedings, and the case will be dismissed.

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 prosecutor will proceed with formal prosecution of the case.

If it is determined that more time is necessary for the child to successfully complete diversion, the diversion agreement can be extended and/or adjusted, not to exceed 180 days. (See Article 45.309(a)). However, after a non-adversarial hearing, the Judge may extend the diversion period up to one (1) year from the original start of the diversion. (See Article 45.309(b)).

## Evaluation

The child and parent/guardian will meet with the Youth Diversion Coordinator to determine eligibility for diversion. Once diversion eligibility has been established, the child and parent/guardian will complete an evaluation to determine where the child may be struggling and to identify remorse and the willingness to accept responsibility/accountability for their actions.

The Youth Diversion Coordinator will determine what the best diversion strategy or approach will be based on information gathered from the evaluation, the offense, and parent/guardian circumstances. The diversion strategy will be added to a comprehensive Diversion Plan Agreement.

## Diversion Plan Agreement

The Youth Diversion Coordinator will prepare a written Diversion Plan Agreement that will include:

- An identification of the alleged conduct and Diversion Plan Agreement terms in clear and concise language understandable to the child;
- Positive and negative consequences of successful completion of, or failure to comply with, the terms of the Diversion Plan Agreement;
- An explanation that a guilty plea is not required, and that participation is not an admission of guilt;
- An explanation of the review and monitoring process for compliance with the Diversion Plan Agreement; and
- The agreed length of the diversion.
- Signatures of the child and parent/guardian indicating each's consent to diversion, with the understanding that diversion is optional. Notification that the child and/or the child's parent/guardian may terminate the diversion at any time, and acknowledgement that upon termination, the case will be referred to the prosecutor.

The case will be dismissed upon completion of the Diversion Plan Agreement.

## Juvenile Diversion Fees

House Bill 3186 allows courts to collect a \$50 administrative fee from a child's parent/guardian for the cost of diverting a case. If a parent/guardian is facing hardship and is unable to pay, the court may waive this fee.

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

- (a) If a child is not eligible for diversion, the prosecutor objects, or the child and/or parent decline participation, the case must proceed with formal prosecution.
- (b) If a child is not compliant with the Diversion Plan Agreement, the case shall be set for a non-adversarial hearing before the 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:
- Amend or set aside terms in the Diversion Agreement;
  - Extend the diversion period not to exceed one year from the initial start date;
  - Continue the hearing for not more than sixty (60) days to allow additional time for compliance with the terms of the agreement;
  - 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;
  - Find substantial compliance and successful completion; **or**
  - Declare the diversion unsuccessful and advise the prosecutor to proceed with formal prosecution.