



JUSTICE OF THE PEACE – PRECINCT FOUR OF FORT BEND COUNTY
OF
FORT BEND COUNTY TEXAS

JUVENILE DIVERSION PLAN

CAME TO BE CONSIDERED on this the 30th day of December 2024, a Juvenile Diversion Plan pursuant to the Texas Youth Diversion and Early Intervention Act (H.B. 3186) by and between the Justice Courts of Precinct Four of Fort Bend County, Texas. The below signed judges hereby approve and adopt the attached plan and all its appendices for their respective courts. The adopted and approved plan shall be published and made available for public inspection in accordance with Texas law.

ADOPTED and APPROVED on this the 21st day of February, 2025

Honorable Keisha T. Smith
Justice of the Peace, Precinct 4
Fort Bend County, Texas



Texas Youth Diversion and Early Intervention ACT – HB 3186

JUVENILE DIVERSION PLAN for PRECINCT 4
JUSTICE COURTS
Fort Bend County, Texas

Effective January 1, 2025

Juvenile Diversion Plan for Precinct 4 Justice Courts

I. Description

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.¹ A child's participation in a youth diversion program is voluntary, requires the child to accept responsibility for the alleged conduct, and requires written consent from both the child and the parent in a written diversion agreement.

Tier Placement, Duration and Strategy Guide Appendix B establishes realistic and reasonable terms for a diversion action plan (DAP). Terms may include, but are not limited to, a combination of conditions such as community service, an educational program, counseling, letters of apology, and/or restitution. Monitoring of a child's compliance with the DAP is monitored by the Court's designated Youth Diversion Coordinator (YDC), the prosecutor, and the Judge. If the child satisfies all the requirements of his/her 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 a child to successfully complete diversion, a diversion contract can be extended and/or adjusted not to exceed 180 days.² The judge, however, may extend up to one year from the original start of the diversion after a non-adversarial hearing.³

II. Objective

The purpose of the youth diversion program and its related procedures are to:

- a. Reduction recidivism and the occurrence of problem behaviors through intervention without having to criminally adjudicate children in justice and municipal courts.
- b. Identify at-risk youth, including youth with 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.
- c. 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.

¹ Texas Code of Criminal Procedure §45.302

² Texas Code of Criminal Procedure §45.309(a)

³ Texas Code of Criminal Procedure §45.309(b)

- d. Increase collaboration between governmental, educational, and non-profit organizations in devising local and regional diversion strategies within the community.

III. Eligibility (Article 45.3 Texas Code of Criminal Procedure)

A child may enter into a diversion agreement once every 365 days. After a child accepts responsibility for the charge alleging engagement in conduct that constitutes a misdemeanor punishable by fine only (other than a traffic offense), they must be diverted from formal criminal prosecution, unless:

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

IV. Intermediate Diversion Evaluation, Intake, and Implementation

The prosecutor and YDC shall review citations issued for those under age 17 assigned to Justice Court. If the child is eligible for intermediate diversion, the prosecutor will notify the YDC of the recommended strategy tier (*see* Appendix B).

Once eligibility has been established, the YDC will notify the parent and child. If the parent and child agree in the child's participation, designated court personnel and/or the prosecutor shall meet with the parent and child to review the proposed diversion action plan (DAP), evaluate the parent- child relationship, consider parent input, or require the parent to participate in the case plan, if appropriate.

V. Diversion Agreement/Diversion Action Plan

There shall be a written binding Diversion Agreement that contains the components required in Article 45.309 & 45.310 of the Texas Code of Criminal Procedure. The objectives shall:

- a. consider the child's circumstances,
- b. be rationally relevant to the alleged conduct,
- c. be realistic to accomplish, and
- d. be in the best interest of the child and 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 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 DAP.

- f. Signatures of the child and parent indicating each's consent to diversion, with the understanding that diversion is optional. Notification that the child and/or the child's parent may terminate the diversion at any time, and acknowledgement that upon termination, the case will be referred to Court.

VI. Participation and Case Management

The Court's designated Youth Diversion Coordinator (YDC) and the prosecutor, will monitor the child's compliance throughout the child's participation in the diversion program, perform case management duties and provide administrative court support as needed. If the child satisfies all the requirements of his/her Diversion Agreement, there will be no further proceedings related to the case. If it is determined that more time is necessary for a child to successfully complete diversion, a diversion contract can be extended and/or adjusted. If the child withdraws or does not successfully complete the Diversion Agreement, the Justice Court will conduct a non-adversarial hearing to determine if 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 is filed with the Justice Court to proceed with formal prosecution.

If a child is not compliant with the diversion action plan (DAP), 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:

- 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 the Juvenile Court for an alleged Child in Need of Supervision (CINS) under Section 51.08 of the Texas Family Code.

VIII. Judicial Diversion

If the child wants to contest the charges and/or if the parents do not give written consent for participation in the youth diversion program, the case will be referred to the prosecutor for filing of the case. The child will be set on a docket to determine if they would like to go to trial. If a verdict of guilt is returned, the presiding Judge will determine if the child is eligible for diversion. If the child is eligible as outlined in section III of this plan, the Judge may offer participation in the youth diversion program.

If the child and parent consent, the Youth Diversion Coordinator will proceed in working with the child and parent, utilizing the recommended tier level to determine referrals, programming, monitoring compliance and informing the Court of noncompliance. If the child or parent do not consent to the diversion program, the Judge will continue with the finding of guilt and proceed with sentencing (*see Appendix C for Process Overview Flowchart*).

IX. Expunction

All records of a diversion pertaining to a child under Subchapter E shall be expunged without the requirement of a motion or request on the child's 18th birthday.

Appendix A Glossary of Terms

Term	Tex C. Crim. Pro. Article	Definition
Charge	45.301(1)	A formal or informal allegation of an offense, including a citation, written promise to appear, complaint, or pending complaint.
Child	45.058(h-1)	A person at least 10 years of age and younger than 17 years of age.
Court	45.301(3)	A justice court, municipal court, or other court subject to this chapter.
Diversion	45.301(4)	An intervention strategy that redirects a child from formal criminal prosecution and holds the child accountable for the child's actions.
Diversion Agreement	45.308(a)	Identifies the parties to the agreement and the responsibilities of the child and parent to ensure their meaningful participation in a diversion.
Diversion Action Plan (DAP)	45.306	A written plan that describes the types of strategies that will be used to implement youth diversion.
Offense	45.301(5)	A misdemeanor punishable by fine only, other than traffic offense.
Parent	45.057(3)	Includes a person standing in parental relation, a managing conservator, or a custodian.
Youth Diversion Coordinator	45.307	A designee of the Court responsible for assisting the Court in executing the youth diversion plan.

Definitions of terms are sourced directly from the specific Article within the Texas Code of Criminal Procedure.

Appendix B Youth Diversion Tier Placement, Duration and Strategy⁺

Tier 1	Criteria
	<ul style="list-style-type: none"> • First time offenders for: <ul style="list-style-type: none"> ○ Trespassing ○ Possession of Tobacco
	Duration of Tier 1 Intermediate Diversion
	<ul style="list-style-type: none"> • 60-90 days (can be extended up to a total of 180 days*)
	Case Strategy Options/Completion Requirements
	<ul style="list-style-type: none"> • First time offender class/state mandated class or approved equivalent • Class or program as designated by the Court • Community service—<i>Optional (20 hours maximum)</i>
Tier 2	Criteria
	<ul style="list-style-type: none"> • First time offenders for: <ul style="list-style-type: none"> ○ Disorderly Conduct (no indications of aggression) ○ Unauthorized Burning ○ Bullying related offenses (non-aggravated) • First time offenders who have had previous interventions at school and/or with juvenile justice • First time Tier 1 offense with identified barriers including, but not limited to: <ul style="list-style-type: none"> ○ Anger management ○ Current use/abuse of drugs or alcohol ○ Behavioral/Mental health concerns ○ Academic difficulties ○ Harmful social connections ○ Complex family dynamics ○ Expressed parental concern • Repeat Tier 1 offenders
	Duration of Tier 2 Intermediate Diversion
	<ul style="list-style-type: none"> • 60-90 days (can be extended up to a total of 180 days*)
	Case Strategy Options/Completion Requirements
	<ul style="list-style-type: none"> • Completion of ordered classes (<i>i.e.</i>, Alive at 25, Unlicensed Driver course) • Community Service—<i>required, minimum 8 hours (20 hours maximum)</i> • Consistent and sustained school attendance/no unexcused absences • Report to and participate in scheduled meetings with designated Court Youth Diversion Coordinator

Tier 3	Criteria
	<ul style="list-style-type: none"> • First time offenders for: <ul style="list-style-type: none"> ○ Possession of Drug Paraphernalia (PDP) ○ Theft ○ Disorderly Conduct (with indications of aggression/violence) ○ Bullying related offenses (aggravated) ○ Destruction of Property ○ Minor in Possession of Alcohol (MIP) or other drug/alcohol related offense ○ Electronic transmission of certain visual material depicting minor ○ Gang related or indicators of gang involvement <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Any first-time offense with two or more identified barriers including, but not limited to: <ul style="list-style-type: none"> ○ Anger management ○ Current use/abuse of drugs or alcohol ○ Behavioral/Mental health concerns ○ Academic difficulties ○ Harmful social connections ○ Complex family dynamics ○ Expressed parental concerns • Repeat offender • Prior unsuccessful deferral
	Duration of Tier 3 Intermediate Diversion
	<ul style="list-style-type: none"> • 90-180 days (extension past 180 days may be ordered by Judge after a non- adversarial hearing*)
	Case Strategy Options/Completion Requirements
	<ul style="list-style-type: none"> • Completion of ordered classes (ex. Alive at 25, Teen Driver’s Safety course) • Completion of ordered resource referral (ex. FOCUS, Counseling; Behavioral Health Services) • Community Service—<i>required, minimum 16 hours (20 hours maximum)</i> • Consistent and sustained school attendance/no unexcused absences • Report to and participate in scheduled meetings with designated court Youth Diversion Coordinator

**The judge presiding over the non-adversarial hearing may extend the diversion for up to one year from the original start date pursuant to Texas Code of Criminal Procedure §45.311.*

+The above-listed diversion strategies do not constitute an exhaustive list of options. Diversion strategies will be implemented on a case-by-case basis to meet the needs of the child and the Tier Placement is a helpful guide in devising an appropriate diversion strategy.

Appendix D
Youth Diversion Agreement
Fort Bend County Justice Court—Precinct 4
[TEXAS CODE OF CRIMINAL PROCEDURE ART. 45.308]

This document constitutes a Diversion Agreement between the Fort Bend County Justice Court—Precinct 4, and _____ (Child) and _____ (Parent).

This Diversion Agreement is entered into as an:

- (Intermediate Diversion under Article 45.309 of the Code of Criminal Procedure).
- (Judicial Diversion under Article 45.310 of the Code of Criminal Procedure).

The objectives of this Diversion Agreement are entered into with consideration of the circumstances of the child, the best interests of the child, and the long-term safety of the community.

This Diversion Agreement shall be effective on the ____ day of _____, 20__ and shall be in effect for a period of _____ days (*not to exceed 180 days*). During the period of this agreement, Child and Parent shall inform the Justice Court of the best mailing address to receive notices, and of changes to that address. Child and Parent shall also provide a phone number and email address to the Court. Child and Parent agree to contact the Youth Diversion Coordinator of the Justice Court, as requested and at the end of the diversion period to discuss the status of completion of this agreement.

Diversion Action Plan:

During the period of this Diversion Agreement, Child shall complete:
(Specify Child's responsibilities and check applicable Diversion Strategies)

- FOCUS
- School-related program: _____
- Educational program: _____
- Rehabilitation program: _____
- Self-improvement program: _____
- Referred to a Service Provider: _____
- Community -based Services: _____
- Community Services: _____ hours (20 hours maximum) DUE BY: _____
- Tutoring
- Teen Court
- Mental health screening
- Clinical assessment
- Counseling
- Mentoring
- Mediation
- Alcohol Testing
- Drug Testing
- Course of treatment prescribed by a physician
- Restitution (requires separate Order)
- Consistent attendance at school/no unexcused absences
- Other: _____ (Required separate Order)

During the period of this Diversion Agreement, Parent shall: *(Specify Parent's responsibilities)*

During the period of this agreement, Parent shall shall not pay to the clerk of the Justice Court a \$50.00 administrative fee to defray the costs of this diversion.

During the period of this agreement, Justice Court shall refrain from processing criminal cases based upon allegations of conduct which occurred on or about the ____ day of _____, 20 ____.

The following charge or offense is being diverted: _____

Upon successful completion of this Diversion Agreement, the Justice Court shall not accept charges related to the Case. Child acknowledges that, upon successful completion of this diversion agreement, Child will **not** be eligible for diversion for a period of 365 days.

If Child and Parent do not successfully complete the terms of this Diversion Agreement, the child shall be referred to the Court for a hearing, for the purpose of a conference between the Judge, Child, and Parent. Child and Parent may, after notifying the Justice Court, bring any other person who may be of assistance to Child or the Justice Court in determining what is in the best interests of Child and the long-term safety of the community.

DIVERSION IS NOT AN ADMISSION OF GUILT AND A GUILTY PLEA IS NOT REQUIRED TO PARTICIPATE IN DIVERSION.

Acknowledgments:

Child hereby knowingly and voluntarily consents to diversion from criminal prosecution, as provided in this Diversion Agreement, acknowledges, and accepts the terms of this agreement, and verifies that Child received notice of the child's rights, including the right to refuse diversion.

Child's Signature

Date

Parent hereby knowingly and voluntarily consents to diversion from criminal prosecution, as provided in this Diversion Agreement, acknowledges, and accepts the terms of this agreement, and verifies that Parent received notice of the child's rights, including the right to refuse diversion.

Parent's Signature

Date

County Clerk Signature (Witness to Agreement)

Date

Diversion under Subchapter E of Chapter 45 of the Texas Code of Criminal Procedure applies to non-traffic offenses committed on or after January 1, 2025. See H.B. 3186 (88th(R) Legislature, 2023).

Appendix E

**DISMISSAL OF CHARGE PURSUANT TO DIVERSION AGREEMENT
[TEXAS CODE OF CRIMINAL PROCEDURE ART. 45.308]**

CAUSE NUMBER: _____

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT 4

§

§

DEFENDANT.

§ FORT BEND COUNTY, TEXAS

ORDER OF DISMISSAL

WHEREAS, the charge against the above named defendant (Child) alleges that Child committed the following offense: _____, the Court hereby **FINDS** that Child does not contest the charge, is eligible for diversion under Article 45.304 of the Texas Code of Criminal Procedure, and accepts the terms of the Diversion Agreement, signed on the ___ day of _____. Accordingly, it is

ORDERED that the charge in the above referenced cause number is hereby **DISMISSED**.

ISSUED AND SIGNED this the _____ day of _____, 20____ .



Judge Presiding

Appendix F

**DISMISSAL OF CHARGE PURSUANT TO DIVERSION AGREEMENT ORDER ON REFERRAL HEARING –
NONCOMPLIANCE WITH DIVERSION AGREEMENT
[TEXAS CODE OF CRIMINAL PROCEDURE ART. 45.311]**

CAUSE NUMBER: _____

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT 4

§

DEFENDANT.

§

§ FORT BEND COUNTY, TEXAS

ORDER ON REFERRAL HEARING

The Court finds that _____
(Child) and _____ (Parent) signed a Diversion
Agreement on the _____ day of _____, 20__, for the following charge: _____

The Court further finds that Child and Parent were sent notice to appear for a referral hearing on _____, 20____, at _____ a.m./p.m. to determine whether diversion should be declared unsuccessful and that Child and Parent ☐ did
☐ did not appear as set forth in the notice. Accordingly, the Court herby

ORDERS:

- The following terms of the Diversion Agreement are set aside: _____
- The following terms of the Diversion Agreement are amended as follows: _____
- The diversion period is extended for the following period (not to exceed one year from the original start date of diversion): _____
- A continuance for the referral hearing (not to exceed 60 days) is granted to allow an opportunity for compliance with the terms of the Diversion Agreement. Child and Parent shall appear for a referral hearing on _____, 20____ at _____ a.m./p.m.
- Having found that it will increase the likelihood that Child will successfully complete the diversion, Parent shall
 perform refrain from performing the following
act(s): _____
- Having found it reasonable and necessary for the welfare of Child, Parent shall comply with the following Order: _____
- The Court finds the diversion **SUCCESSFUL** based on substantial compliance.
- The Court finds the diversion **UNSUCCESSFUL** and:
 - Refers the charge to the Prosecutor for consideration of re-filing.

- By separate Order, transfers Child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08 of the Family Code. *(See Form: Waiver of Jurisdiction and Transfer to Juvenile Court)*

ISSUED AND SIGNED this ____ day of _____, 20__.



Judge Presiding

Appendix G

**REFERRAL TO COURT FOR HEARING
NONCOMPLIANCE WITH DIVERSION AGREEMENT**

[TEXAS CODE OF CRIMINAL PROCEDURE ARTS. 45.310 AND 45.311]

CAUSE NUMBER: _____

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT 4

§

DEFENDANT.

§

§ FORT BEND COUNTY, TEXAS

NOTICE TO APPEAR FOR REFERRAL HEARING

Child's Name: _____ Charge being Diverted: _____
<<ADDRESS>>

Parent's Name: _____
<<ADDRESS>> (if different from Child's address)

The Court's records show that you have failed to comply with the terms of the Diversion Agreement entered into by you and your parent on _____, 20__ .

You and your parent are hereby ORDERED to appear before the Justice Court Precinct 4, Place at ___ a.m./p.m. on _____, 20__ , for a hearing to determine whether diversion should be declared unsuccessful.

The Court may also hear from any person who may be of assistance to the child or the court in determining what is in the best interests of the child and the long-term safety of the community. If applicable, please contact the Court and provide the name and address of such person.

If the Court finds the diversion unsuccessful, the Court will either transfer the Child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08 of the Family Code or refer the charge to the prosecutor for consideration of re-filing.



Judge
Justice of the Peace, Precinct 4
Fort Bend County, Texas