

# HEWITT

TEXAS

Hewitt Municipal Court  
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## YOUTH DIVERSION PLAN

Effective January 1<sup>st</sup>, 2025

### 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.

The Youth Diversion Plan allows a child the opportunity to complete a Youth Diversion plan with realistic and reasonable terms, set by the Municipal Court Judge or the Youth Diversion Coordinator. Terms may include a combination of conditions such as community service, an educational program, counseling, letters of apology, and/or restitution, etc. A child's participation is voluntary and requires the child to accept responsibility for his or her conduct and engage in a diversion agreement.

The Juvenile Case Manager or Youth Diversion Coordinator will monitor the child's compliance throughout their participation in the program which may run up to 180 days. 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 Hewitt Municipal Court will conduct a hearing to determine if the diversion was unsuccessful. If it is determined the diversion measures were unsuccessful, the court may transfer the child to a juvenile court or formally file the charge against the child for criminal prosecution, with the prosecutor's approval.

If it is determined that more time is necessary for a young person to successfully complete diversion, a diversion contract can be extended and/or adjusted.

### II. Eligibility

1. The child is charged with a misdemeanor offense, punishable by fine only, other than a traffic offense.
2. A child has not entered into a diversion agreement in the past 365 days.
3. A child is not eligible for diversion if the child previously had an unsuccessful diversion.
4. A child may not be diverted from criminal prosecution without the consent of the child and child's parent/guardian.
5. The child is at least 10 years of age and younger than 17 years of age.
6. A child is not eligible for diversion if a diversion is objected to by the attorney representing the state.

### **III. Objection by the Attorney Representing the State**

1. Charges involving assault by contact.
2. Charges involving assault by contact-family violence.
3. Charges involving conduct of a sexual nature.
4. Charges involving possession of drug paraphernalia.
5. Any charge where, after having been granted a diversion, a finding of unsuccessful diversion has been made by the court.
6. Any charge where a child failed to appear in court to resolve a pending charge that occurred prior to their 17<sup>th</sup> birthday.

### **IV. Hewitt Municipal Court opt to do Intermediate Diversion**

1. Youth diversion coordinator or juvenile case manager shall advise the child and the child's parent before a case is filed that the case may be diverted under this article for a reasonable period not to exceed 180 days.
2. Youth diversion coordinator or juvenile case manager shall advise which diversion plan is in the best interests of the child.
3. Youth diversion coordinator or juvenile case manager shall advise the child and the child's parent that consent to diversion is required and inform child and parent that diversion is optional.
4. Youth diversion coordinator or juvenile case manager shall advise the child and the child's parent that they may terminate the diversion at any time and, if terminated, the case will be referred to court.
5. Youth diversion coordinator or juvenile case manager shall explain the terms of a diversion agreement, the agreement must be in written form and may include any of the diversion strategies under Article 45.305.
6. Youth diversion coordinator or juvenile case manager shall advise the child and parent the case of a child who successfully complies with the terms of a diversion agreement under this article shall be closed and reported as successful to the court.
7. Youth diversion coordinator or juvenile case manager shall advise the child and parent who does not comply with the terms of a diversion agreement under this article shall be referred to court under Article 45.311.

### **V. Youth Diversion Goals**

1. Prevent formal criminal prosecution.
2. Empower the child to accept responsibility for his/her actions.
3. Encourage acceptance of their consequences.
4. Deter future criminal conduct.
5. Prevent creation or extension of criminal records.
6. Reduce the reoccurrence of problem behaviors leading to gateway misdemeanors.
7. Avoid currency punishments for youth and their parent/guardians with limited financial resources.

## **VI. Youth Diversion Plan**

A youth diversion plan is a written plan that describes the types of strategies that will be used to implement youth diversion. A youth diversion plan does not limit the types of diversion strategies that may be imposed under a diversion agreement under Article 45.308. Youth Diversion Plan may include, but is not limited to:

1. Bring together participants (e.g., child and parent(s)/guardian (s)), Judge, Youth Diversion Coordinator or Juvenile Case Manager, prosecutor, etc.)
2. Conduct a meeting and review charge(s).
3. Ensure the child and parent(s)/guardian understand participation is not an admission of guilt and is voluntary.
4. Discuss the best course of action for the diversion plan.
5. Set requirements and ensure the child and parent(s)/guardian comprehend the diversion agreement.
6. The child and parent(s)/guardians) accept and sign the individualized, written diversion agreement. The agreement will include term(s) of compliance, duration of the agreement, and a date by which conditions must be met. (These terms and conditions will be set on a case-by-case basis).

## **VII. Strategies**

The court may require a child to participate in a program, as referenced in Chapter 45, Code of Criminal Procedure, Subchapter E. Youth Diversion, Art. 45.305, which include but are not limited to:

1. Require a child to participate in a court approved teen court program.
2. Perform Community based services at a non-profit organization or government agency that provides services to the general public that enhances the social welfare and general well-being of the community.
3. Attend a work and job skills training program.
4. Attend a preparatory class for the high school equivalency examination, administered under section 7.11, Texas Education Code
5. Attend an alcohol or drug abuse program.
6. Partake in counseling, including private or in-school counseling.
7. Require the child to pay restitution for an offense against property.

## **VIII. Case Management**

During the diversion period, the Judge, Youth Diversion Coordinator, Juvenile Case Manager, or Prosecutor will follow-up periodically for the sole purpose of evaluating program progress. Follow-up measures may include:

1. Follow-up calls to the child and parent(s)/guardian.
2. Contacting the Community Service provider.
3. Communication with school officials.
4. Conduct additional meetings as needed.
5. Referrals to educational classes and community service providers.

## **IX. Conclusion of Case**

If the child successfully complies with the terms set in the diversion agreement, the case is closed without further prosecution and is reported as successfully completed. Should the child voluntarily withdraw from the diversion agreement or fail to comply with the terms of the agreement, the court will:

1. Conduct a non-adversarial hearing.
2. Determine if an extension period should be granted to comply with the diversion agreement.
3. Review terms of the diversion agreement and amend if needed.
4. Transfer the child to juvenile court.
5. Refer the charges to the Prosecutor for filing consideration.
6. Issue an order of contempt against the parent(s)/guardian.
7. Filing of charge against child for formal criminal prosecution.

## Glossary of Terms

Terms	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.
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.
Youth Diversion Plan	45.306	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.*