



# **CITY OF AMARILLO MUNICIPAL COURT**

## **YOUTH DIVERSION PLAN**

### **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 Program with realistic and reasonable terms, set by the Municipal Court Judge or the 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 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 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 the diversion, a diversion contract can be extended and/or adjusted.

### **II. 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 the creation or extension of criminal records.
6. Reduce the recurrence of problem behaviors leading to gateway misdemeanors.
7. Avoid currency punishments for youth and their parent/guardians with limited financial resources.

### **III. Eligibility**

1. The child is charged with a misdemeanor offense, punishable by fine only, other than a traffic offense.
2. A child is eligible to enter into a diversion agreement once every 365 days.
3. A child is not eligible for diversion if the child previously had an unsuccessful diversion.

4. A child is not eligible for diversion if a diversion is objected to by the attorney representing the state.
5. A child may not divert from criminal prosecution without the written consent of the child and the child's parent/guardian.
6. The child is at least 10 years of age and younger than 17 years of age.

#### **IV. Strategies**

The Court may require a child to participate in a program which includes but is not limited to the following:

1. Requiring a child to participate in a program, including:
  - (A) a school-related program.
  - (B) an educational program, including an alcohol awareness program, a tobacco awareness program, or a drug education program.
  - (C) a rehabilitation program; or
  - (D) a self-improvement program, including a program relating to self-esteem, leadership, self-responsibility, empathy, parenting, parental responsibility, manners, violence avoidance, anger management, life skills, wellness, or dispute resolution;
2. referring a child to a service provider for services, including:
  - (A) at-risk youth services under Subchapter D, Chapter 264, Family Code.
  - (B) work and job skills training, including job interviewing and work preparation;
  - (C) academic monitoring or tutoring, including preparation for a high school equivalency examination administered under Section 7.111, Education Code.
  - (D) community-based services.
  - (E) mental health screening and clinical assessment.
  - (F) counseling, including private or in-school counseling; or
  - (G) mentoring services.
3. requiring a child to:
  - (A) participate in mediation or other dispute resolution processes.
  - (B) submit to alcohol or drug testing; or
  - (C) substantially comply with a course of treatment prescribed by a physician or other licensed medical or mental health professional; and
4. requiring a child, by court order, to:
  - (A) pay restitution not to exceed \$100 for an offense against property under Title 7, Penal Code.
  - (B) perform not more than 20 hours of community service; or
  - (C) perform any other reasonable action determined by the court.

#### **V. Intermediate Diversion Intake & Implementation**

The Diversion Coordinator 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. Once a preliminary case plan is recommended, the Diversion Coordinator 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.

## **VI. Diversion Agreement**

There shall be a written binding Diversion Agreement that contains the components required by law. The objectives shall:

1. consider the child's circumstances,
2. be rationally relevant to the alleged conduct,
3. be realistic to accomplish, and
4. 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:

1. Identification of the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation a diversion.
2. Identification of the alleged conduct and diversion agreement terms in clear and concise language is understandable to the child.
3. Positive and negative consequences of successful completion of, or failure to comply with the terms of the diversion agreement.
4. An explanation that a guilty plea is not required, and that participation is not an admission of guilt.
5. An explanation of the review and monitoring process of compliance with the diversion agreement.
6. The agreed length of the diversion plan.
7. 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 acknowledge that upon termination, the case will be referred to in court.

## **VIII. Referral To Court - Prosecutor Objection, Declined Intermediate Diversion Or Unsuccessful Completion**

If the Prosecutor objects, the child and/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 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:

1. Declare the diversion unsuccessful, and/or
2. Amend or set aside terms in the Diversion Agreement.
3. Extend the diversion period not to exceed one year from the initial start date.
4. Continue the hearing for not more than sixty (60) days to allow additional time for compliance with the terms of the agreement.
5. 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.
6. Find substantial compliance and successful completion.
7. Refer the case to the prosecutor for filing.
8. Transfer the case to Juvenile Court for an alleged Child in Need of Supervision (CINS) under Section 51.08 of the Texas Family Code.

## **IX. Court Proceedings**

If the diversion is determined unsuccessful, or the child and/or parent declines the Intermediate Diversion, upon filing of a complaint by the Prosecutor the case shall be set on a regular Juvenile Docket. If the case proceeds to trial, it shall proceed to disposition in accordance with Texas Code of Criminal Procedure Article 45.041 (a-2) & (b-3).

## **V. Case Management**

During the diversion period, the Judge, Diversion Coordinator, or Prosecutor will follow-up periodically for the sole purpose of evaluating program progress.

Follow-up measures may include:

1. Follow-up calls, texts or emails 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.

## **VI. 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 the terms of the diversion agreement and amend it 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.