



YOUTH DIVERSION PLAN

I. Description

As provided by Chapter 45, subchapter E of the Texas Code of Criminal Procedure, as amended, and contingent on eligibility, a child (at least 10 years of age and younger than 17 years of age) 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 diversion, which means an intervention strategy that redirects a child from formal criminal prosecution and holds the child accountable for the child's actions. The terms of the diversion 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 City of China Grove Municipal Court Administrator or her designee is designated as the Youth Diversion Coordinator. The Youth Diversion Coordinator will assist the court in determining whether a child is eligible for diversion; employing a diversion strategy authorized by Chapter 45, subchapter E of the Texas Code of Criminal Procedure as amended; presenting and maintaining diversion agreements; monitoring diversions, maintaining records regarding whether diversions were successful or unsuccessful; and coordinating referrals to the court.

The Youth Diversion Coordinator will monitor the child's compliance throughout his/her participation in the diversion which may last up to 180 days. 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 China Grove Municipal Court will conduct a hearing to determine if the diversion was unsuccessful. If it is determined that the child was unsuccessful in complying with the terms of the diversion agreement, the court may transfer the child to juvenile court or formally file the charge against the child for criminal prosecution, with the City of China Grove Prosecutor's approval. If it is determined that more time is necessary for a child to successfully complete a diversion, a diversion agreement may 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 is not eligible for diversion if a diversion is objected to by the prosecutor.
5. A child may not be diverted from criminal prosecution without the consent of the child and child's parent/guardian.
6. The child is at least 10 years of age and younger than 17 years of age.

III. Diversion by Judge

If a citation involving a child who is eligible for diversion is filed with a court, the municipal court judge shall divert the case as follows:

1. If the child does not contest the charge, the municipal court judge shall divert the case without the child having to enter a plea; or
2. If the child contests the charge, the municipal court judge shall divert the case at the conclusion of trial on a finding of guilt without entering a judgment of conviction as provided by Chapter 45, Subchapter E, Article 45.401.

A diversion may not exceed 180 days. The terms of a diversion agreement must be in writing and may include any of the diversion strategies described below.

The case of a child who successfully complies with the terms of a diversion agreement shall be closed and reported as successful to the court. A child who does not comply with the terms of a diversion agreement shall be referred to the court for a hearing.

The filing of a citation is not considered a charge until a complaint is filed with the court.

IV. Diversion Strategies

Diversion strategies include:

1. Requiring a child to participate in a program, including: a court-approved teen court program; a school-related program; an educational program, including an alcohol awareness program, a tobacco awareness program, or a drug education program; a rehabilitation program; or 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: at-risk youth services; juvenile case manager services; work and job skills training, including job interviewing and work preparation; academic monitoring or tutoring, including preparation for a high school equivalency examination; community-based services; mental health screening and clinical assessment; counseling, including private or in-school counseling; or mentoring services;
3. Requiring a child to: participate in mediation or other dispute resolution processes; submit to alcohol or drug testing; or 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: pay restitution not to exceed \$100 for an offense against property under Title 7, Texas Penal Code; perform not more than 20 hours of community service; or perform any other reasonable action determined by the court.

V. Diversion Agreement

A diversion agreement must identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation in a diversion. The stated objectives in a diversion agreement must be measurable, realistic, and reasonable and consider the circumstances of the child, the best interests of the child, and the long-term safety of the community.

A diversion agreement must include:

1. the terms of the agreement, including one or more diversions required to be completed by the child, written in a clear and concise manner and identifying any offense or charge being diverted;
2. possible outcomes or consequences of a successful diversion and an unsuccessful diversion;
3. an explanation that participation in a diversion is not an admission of guilt and a guilty plea is not required to participate in a diversion;
4. an explanation of the process that will be used for reviewing and monitoring compliance with the terms of the agreement.
5. the period of the diversion.
6. a verification that: (A) the child and the child's parent were notified of the child's rights, including the right to refuse diversion; and (B) the child knowingly and voluntarily consents to participate in the diversion; and
7. written acknowledgment and acceptance of the agreement by the child and the child's parent.

The terms of an agreement may vary depending on the circumstances of the child, including the child's age and ability, the charge being diverted, or the diversion strategy used. A charge may not be filed against a child or, if filed, shall be dismissed by the court if the child: (1) does not contest the charge; (2) is eligible for diversion under Chapter 45, Subchapter E, Article 45.304; and (3) accepts the terms of the diversion agreement.

V. Management

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

Follow-up measures may include:

1. Follow-up calls to the child's 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 Diversion

If the child successfully complies with the terms set forth in the diversion agreement, the case is closed without further prosecution and is reported as successfully completed. Should the child voluntarily withdrawal from the diversion agreement or fail to comply with the terms of the diversion agreement, the court will conduct a non-adversarial hearing and after the hearing, the court may enter an order:

1. amending or setting aside terms in the diversion agreement;
2. extending the diversion for a period not to exceed one year from the initial start date of the diversion;
3. issuing a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of the diversion;
4. requiring the child's parent to perform any act or refrain from performing any act as the court determines will increase the likelihood the child will successfully complete the diversion

and comply with any other order of the court that is reasonable and necessary for the welfare of the child;

5. finding the diversion successful on the basis of substantial compliance; or
6. finding the diversion unsuccessful and: (A) transferring the child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08, Family Code; or (B) referring the charge to the prosecutor for consideration of re-filing.

The Municipal Court of the City of China Grove hereby adopts the Youth Diversion Plan, effective January 1, 2025, in accordance with the provisions of House Bill 3168 and Subchapter E, Chapter 45 of the Texas Code of Criminal Procedure. This plan is designed to promote accountability, reduce recidivism, and ensure the welfare and safety of the community by redirecting eligible youth from formal prosecution to constructive intervention.

Date: December 20, 2024



Lawrence G. Morales

Presiding Judge

Municipal Court of China Grove, TX

