

# JUSTICE OF THE PEACE ECTOR COUNTY, TEXAS

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## ECTOR COUNTY JUSTICE COURT YOUTH DIVERSION PLAN

1. The Ector County Justice Courts adopts this written youth diversion plan that describes the types of strategies that will be used to implement youth diversion. The current plan must be maintained in the court for public inspection.
2. For intermediate diversion, a youth diversion coordinator or juvenile case manager will advise the child and the child's parent before a case is filed that:
  - a. A case may be diverted for a reasonable period not to exceed 180 days.
  - b. A child may enter into a diversion agreement once every 365 days. Thus, a child who has entered into a diversion agreement within the prior year is ineligible for diversion.
  - c. A child is also not eligible for diversion if: (1) the child has previously had an unsuccessful diversion under Subchapter E or (2) the prosecutor objects to the diversion.
  - d. A court may not divert a child under Subchapter E without the written consent of the child and parent.
  - e. The child and parent may terminate the diversion at any time and, if terminated, the case will be referred to court.
3. After receiving a charge (non-traffic) involving a child, whether filed (diversion by judge) or not (intermediate diversion), It will be determined if the child is eligible for diversion:
  - a. A child may enter into a diversion agreement once every 365 days. Thus, a child who has entered into a diversion agreement within the prior year is ineligible for diversion.
  - b. A child is also not eligible for diversion if:
    - i. the child has previously had an unsuccessful diversion under Subchapter E or
    - ii. the prosecutor objects to the diversion.
  - c. A court may not divert a child under Subchapter E without the written consent of the child and parent.
4. It will be determined if the child contests the charge.
  - a. If the child does not contest the charge, the case will be diverted without the child having to enter a plea.
  - b. If the child contests the charge, the case proceeds with formal criminal prosecution.
5. Completion of a written diversion agreement.
  - a. The diversion agreement must identify the parties to the agreement and the responsibilities of the child and parent to ensure their meaningful participation in a diversion, whether intermediate diversion or diversion by judge.
  - b. 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.
  - c. A diversion agreement must be in writing and include:
    - i. 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;
    - ii. possible outcomes or consequences of a successful diversion and an unsuccessful diversion;

- iii. 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;
    - iv. the period of the diversion;
    - v. a verification that the child and parent were notified of the child's rights, including the right to refuse diversion; and the child knowingly and voluntarily consents to participate in the diversion; and
    - vi. a written acknowledgment and acceptance of the agreement by the child and the child's parent.
6. A \$50 local youth diversion administrative fee will be assessed to defray the costs of the diversion of the child's case.
7. Provide a copy of the agreement to the child, parent, clerk of the court, youth diversion coordinator, and any person specified by the youth diversion plan.
  - a. The fee may not be collected unless specified as a term of the diversion agreement accepted by the child's parent.
  - b. A court shall waive the fee if the parent is indigent or does not have sufficient resources or income to pay the fee.
  - c. The clerk of the court shall keep a record of the fees collected under Art. 45.312 and shall forward the funds to the county treasurer or person fulfilling that role, as appropriate.
8. At the end of the diversion period, determine whether the diversion was successful.
9. If the child successfully complies with the terms of the diversion agreement, the case will be closed and reported to the court as successful.
10. If the child does not comply with the terms of the diversion agreement, The child will be referred to court for a hearing.
  - a. The court shall conduct a non-adversarial hearing for a child who does not successfully complete the terms of the diversion agreement and is referred to court.
11. After the hearing, a court may enter an order:
  - a. amending or setting aside terms in the diversion agreement;
  - b. extending the diversion for a period not to exceed one year from the initial start date of the diversion;
  - c. 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;
  - d. Subject to Art. 45.311(d), requiring the parent to perform or refrain from performing any act 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;
  - e. finding the diversion successful on the basis of substantial compliance; or
  - f. finding the diversion unsuccessful and
    - i. transferring the child to juvenile court for alleged conduct indicating a need for supervision (CINS) under Section 51.08 of the Family Code; or
    - ii. referring the charge to the prosecutor for consideration of re-filing.
12. The court shall maintain statistics for each diversion strategy authorized by Subchapter E.
13. 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.