

Sudan Municipal Court

YOUTH DIVERSION PLAN

The Texas Legislature, in the 88th Regular Session (2023), passed H.B. 3186, which increases opportunities for the early identification of at-risk youth and for redirecting children accused of certain “gateway” Class C misdemeanors from the criminal justice system to something more like the civil juvenile justice system. Currently, municipal judges and justices of the peace can only order diversion strategies after a case has resulted in a conviction or deferral of disposition; thus, the diversion is only avoiding a conviction on their record. H.B. 3186 makes these strategies available at the front end of a case where they can be more effective. This aligns municipal and justice court practices with those used by juvenile probation and juvenile courts. The bill also recalibrates and expands opportunities for collaboration and financial resources in both rural and urban parts of Texas.

The purpose of this Youth Diversion Plan is to:

1. Reduce recidivism and the occurrence of problem behaviors through intervention without having to criminally adjudicate children in justice and municipal courts.
2. 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.
3. 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.
4. Increase collaboration between governmental, educational, and non-profit organizations in devising local and regional diversion strategies in rural and urban counties and municipalities.

Diversion Strategies

“Diversion” means an intervention strategy that redirects a child from formal criminal prosecution and holds the child accountable for the child’s actions. Courts have been granted broad discretion in determining what diversion strategies to adopt. Examples of these strategies include:

- Participation in a teen court program
- Participation in a school-related program
- Participation in an educational program such as alcohol awareness or tobacco awareness courses
- Participation in a rehabilitation program
- Participation in a self-improvement program relating to self-esteem, leadership, self-responsibility, empathy, anger management and more
- Referring a child to a service provider for services such as work and job skills training
- Academic monitoring or tutoring, including preparation for a high school equivalency examination
- Engaging in community-based volunteering
- Participation in mental health screening and attending counseling
- Submitting to alcohol or drug testing
- Paying restitution of \$100 or less for offenses committed against another’s property

Diversion Procedure

There are two types of diversion: (1) intermediate diversion under Article 45.309, which occurs before a charge involving an eligible child is filed, and (2) diversion by judge under Article 45.310, which occurs after a charge involving an eligible child is filed or after a trial involving an eligible child result in a verdict or finding of guilt. Courts may choose to implement intermediate diversion, but all courts have requirements related to diversion by the judge. Regardless of which type of diversion the court implements, the process is generally the same. Below are procedures related to the youth diversion process codified in Subchapter E of Chapter 45 of the Code of Criminal Procedure, which applies to non-traffic offenses committed by children on or after January 1, 2025

- After receiving a non-traffic charge involving a child, a determination will be made regarding the child’s eligibility for diversion
- The court must determine whether the child contests the charge
 - If the child does not contest the charge, the case will be diverted without the child having to enter a plea
 - If the child contests the charge, the case will proceed with formal criminal prosecution

- If the case proceeds to trial and results in a jury verdict, the child may still be eligible to accept placement in diversion instead of entering an adjudication of guilt
- The child and the child's parent will sign the diversion agreement
- If the child successfully complied with the terms of the diversion agreement, the case will be closed and reported as successful
- If the child does not comply with the terms of the diversion agreement, the case will be referred to court for a non-adversarial hearing to determine whether the diversion was unsuccessful

Diversion Eligibility

A child is eligible for diversion from formal criminal prosecution unless:

1. The child has already entered into a diversion agreement within the last 365 days;
2. The child has previously had an unsuccessful diversion;
3. The diversion is objected to by the prosecutor; or
4. The child and the child's parent refuse to give written consent to enter into a diversion agreement.

Local Youth Diversion Administrative Fee (LYDAF)

Article 45.312 authorizes the clerk of the court to collect from a child's parent a \$50 administrative fee to defray the costs of the diversion of the child's case. If the fee is not paid, the court must order the parent, if financially able, to pay the fee to the clerk. An order to pay is enforceable by contempt. If a parent is indigent or does not have sufficient resources or income to pay, they must complete a financial hardship waiver.

Adopted by Sudan Municipal Court on this 23 day of December, 2024



Martin Lee Davison
Sudan Municipal Court Judge