

YOUTH DIVERSION PLAN

§ IN THE JUSTICE COURT  
§ PRECINCT 4/1  
§ ELLIS COUNTY, TEXAS

**ORDER ADOPTING A YOUTH DIVERSION PLAN**

**IT IS ORDERED** pursuant to *Article 45.306 (b) of the Texas Code of Criminal Procedure* that the Court adopts the *Youth Diversion Plan* hereafter referred to as the “*Ellis County Justice of the Peace Precinct 4/1 Youth Diversion Plan*” or “*Diversion Plan*”.

**IT IS FURTHER ORDERED** that the Plan shall not limit the types of strategies or services that may be imposed as needed in the best interest of the child and to promote the long-term safety of the community. Strategies and Services may be tailored to an individual case as determined by the Judge, Prosecutor and the Youth Diversion Coordinator after assessment and collaboration with all interested parties and service providers.

**IT IS FURTHER ORDERED** that the procedures, components, and applicable law referenced in the *Diversion Plan* shall be maintained on file for public inspection.

**THIS PLAN WILL BECOME EFFECTIVE JANUARY 1, 2025.**

SIGNED AND ENTERED on this 13th day of December, 2024



Judge Mike McKenna



# ELLIS COUNTY

## CODE OF ETHICS FOR JUVENILE CASE MANAGERS

### PREAMBLE

The goal of the juvenile case manager is to assist the Court in administering the Court's juvenile dockets, to supervise its orders in cases involving juvenile offenders, and to communicate with the Court regarding relevant life circumstances of juveniles appearing before the Court. The mission of the juvenile case manager is to assist judges in providing juveniles and their families with resources to shape the juvenile's future, and to help the juvenile connect with the community and develop into a law-abiding citizen. Those people applying this Code of Ethics shall keep foremost in mind that the County is guided at all times by the values of integrity, excellence, compassion, and respect for the dignity of every person.

### STANDARDS

**Confidentiality.** A juvenile case manager shall not disclose to any unauthorized person any confidential information acquired in the course of employment. A juvenile case manager shall not violate the confidentiality of juvenile clients unless the juvenile case manager is seeking consultation services from within the case management program or a school campus, or if the juvenile has threatened to harm himself, herself, or others, or if the juvenile case manager is providing details of any criminal activity or enterprise.

**Conflicts of Interest.** A juvenile case manager shall be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. In order to maintain the community's trust in the judicial system, a juvenile case manager should avoid soliciting or accepting improper gifts, gratuities, or loans, and should avoid engaging in business relationships that give rise to an appearance of impropriety. **Competence.** A juvenile case manager shall endeavor at all times to perform official duties properly and with courtesy and diligence. A juvenile case manager shall fulfill his or her duty and represent himself or herself only within the boundaries of his or her education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

**Respect for the Law.** A juvenile case manager shall abide by all federal, state, county, and Justice of the Peace laws, guidelines, ordinances, and rules. A juvenile case manager shall be familiar with the Texas Code of Judicial Conduct and the basic standards to which members of the judiciary are held.

**Abuse of Position.** A juvenile case manager shall not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or any other person. A juvenile case manager shall always maintain appropriate relationships with juveniles and members of their family who have cases in the Court. A juvenile case manager shall not discriminate against any person on the basis of age, sex, creed, sexual preference, disability, or national origin.

**Private Life.** A juvenile case manager shall behave in a manner that does not bring discredit to the County or to them. A juvenile case manager's character and conduct outside the court must be exemplary so as to maintain a position of respect in the County and in the community where he or she lives.

### ENFORCEMENT

Any alleged violation of applicable ethical standards shall be subject to investigation and discipline by the County's Justice of the Peace court administrator in consultation with the County's human resources department.

YOUTH DIVERSION PLAN  
JUSTICE OF THE PEACE, PRECINCT 4/1  
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**Purpose:** The purpose of this Youth Diversion Plan is to protect and preserve the interests of Texas youth who have run afoul of our laws by providing interventions and strategies designed to assist the troubled youth and to keep his/her record clean and his/her future bright with opportunity to successfully integrate into society without the burdens of their youth raising barriers. A copy of this Youth Diversion Plan shall be maintained on file for public purposes.

**Youth Diversion Coordinators:** Tiffany Acuna, Criminal Court Coordinator from Justice Court, Precinct 4/1.

**Plan Qualifications:** A youth must be 17 years of age or younger at the time they allegedly committed the nontraffic offense, and shall not have had a prior unsuccessful Diversion Plan. The youth must not have signed a Diversion Agreement within 12 months prior to the commencement of a new Agreement.

**Effective Date of Plan:** January 1, 2025

**Overview of Plan:** When a youth allegedly runs afoul of the law and charges are leveled against that youth, this Plan is designed to intervene to provide strategies and services which may provide helpful assistance in the hopes of averting further interactions with the legal system. The Plan will be specific to each individual youth. The Plan will be memorialized in a written agreement which must be signed by the youth and a parent. The Agreement will divert and halt the prosecution of charges which have been leveled against the youth and the pending charges will be dismissed at the onset. The Agreement will be for a set time as determined by the Youth Diversion Coordinators but will be no longer than 180 days. A copy of the executed Agreement must be provided to the child, the parent, the clerk of the court, the Youth Diversion Coordinators, and any other person specified in the executed Agreement.

The Agreement will be monitored by the Youth Diversion Coordinators who will keep in contact with the service providers, the youth, and/or the parents of the youth, to verify that the requirements of the Agreement are being administered and followed. This will include the Youth Diversion Coordinators taking an active role in communicating with any providers, the youth and the parent.

Participation in this Plan and execution of the Agreement is not an admission of any guilt, and no plea is required to participate. Participation is also voluntary, and the child and the parent will be notified of the child's rights, including the right to refuse the Diversion Plan. The child must knowingly and voluntarily consent to participate in the Plan, and the signatures of both the child and the parent are required to invoke the rights under this Plan.

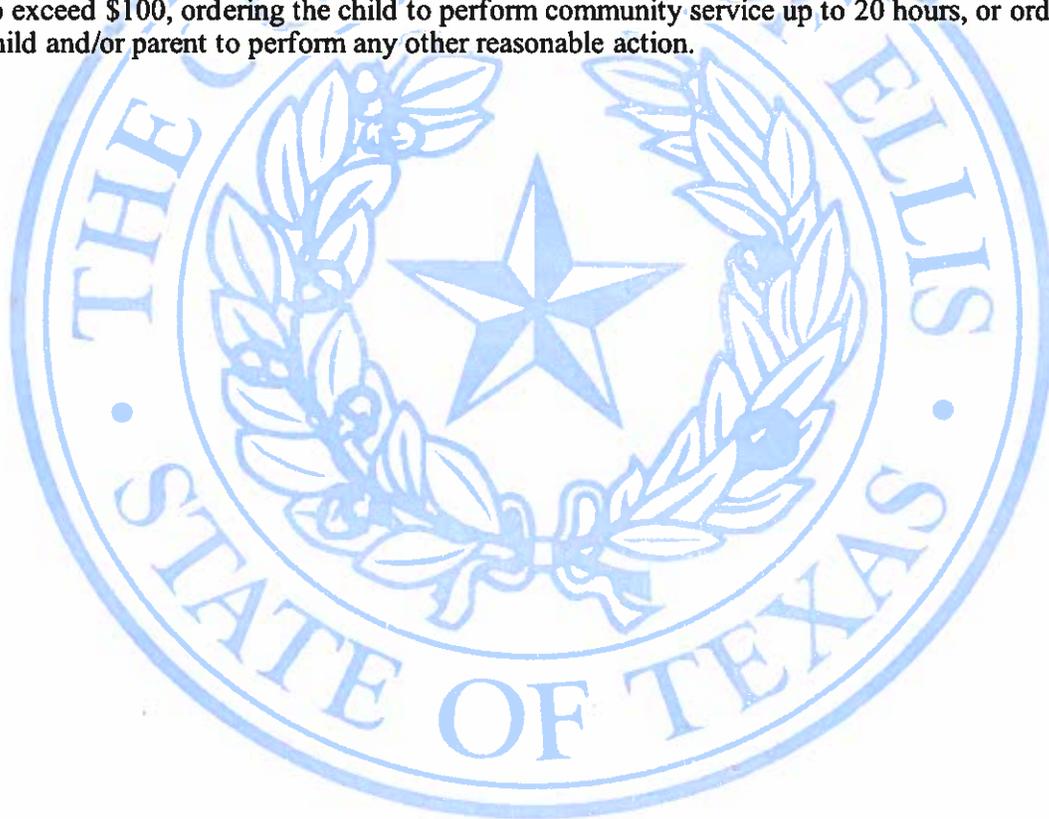
**Possible Outcomes:** A successful completion of the Agreement will bar the charges leveled against the youth being revived and prosecuted. The records associated with the youth will be automatically expunged when the youth turns 18 years of age. The Court may, at its discretion, amend or set aside certain terms to the Agreement, may extend the diversion period not to exceed one year from the initial start date, order the parent to perform any reasonable act or

An unsuccessful completion of the Plan may result in the case being referred for prosecution.

The Court maintains jurisdiction over the case for the period of the Agreement.

**Plan Records:** The Youth Diversion Coordinators shall maintain records on all Plans for three years and shall keep a permanent file on all successful and unsuccessful Plans.

**Plan Strategies:** Plan strategies and interventions include, but are not limited to, any teen court program, any school related program, other educational program such as alcohol, drug, or tobacco programs, rehab therapy, self-improvement programs, referring the youth to a service provider addressing (among other things) at-risk youth services, juvenile case manager services, work and job skills training, academic monitoring and/or tutoring including GED prep, community-based services, mental health screening and/or clinical assessment, private or in-school counseling, mentoring services, ordering the child to pay restitution on property offenses not to exceed \$100, ordering the child to perform community service up to 20 hours, or ordering the child and/or parent to perform any other reasonable action.



## **ELLIS COUNTY JUSTICE OF THE PEACE 4/1 – YOUTH DIVERSION PLAN**

### **I. OBJECTIVE**

The objective of this plan is to develop intervention strategies that redirect a child from formal criminal prosecution while still holding the child accountable for the child's actions. Stated objectives in this 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.

### **II. APPLICABILITY**

This plan applies to a child that is alleged to have engaged in conduct that constitutes a misdemeanor punishable by a fine only, other than a traffic offense. This plan does not prohibit a child from being referred, adjudicated, or disposed of as conduct indicating a need for supervision under ***Title 3, Family Code***, or a waiver of jurisdiction and transfer of a child's case as provided by section ***51.01 of the Texas Family Code***.

### **III. ELIGIBILITY**

A child shall be diverted from formal criminal prosecution if the child meets the eligibility requirements of ***Texas Code of Criminal Procedure, Art. 45.304 – Diversion Eligibility***. The following are eligibility requirements:

1. Must not have had an unsuccessful diversion.
2. Must not have had a successful diversion in the previous 365 days
3. The prosecuting attorney does not object to the diversion
4. Both the parent and child agree by written consent to the diversion

A child that is eligible under this section, wishes to take the case to trial, and the judge or a jury determines the evidence would support a finding of guilt, the court shall provide the child and the child's parents the opportunity to accept placement in a diversion instead of entering an adjudication of guilt.

If the child and the child's parents chose to accept the opportunity for diversion, the court shall place the child in the diversion plan. However, if the child and the child's parents decline to accept the diversion opportunity, the court shall find the child guilty and proceed to sentencing.

### **IV. DIVERSION STRATEGIES**

Diversion strategies include, but are not limited to the following, and may be imposed under an intermediate diversion under ***Texas Code of Criminal Procedure, Art. 45.309***; or by a justice or judge under ***Texas Code of Criminal***

**Procedure, Art. 45.310**, or a system of graduated sanctions for certain school offenses under **Texas Education Code 37.144**:

1. School-related program
2. Educational Program
  - a) Alcohol awareness program
  - b) Tobacco awareness program
  - c) Drug education program
3. Rehabilitation program
4. Self-Improvement Program (related to self-esteem, leadership, self-responsibility, empathy, parenting, parental responsibility, manners, violence avoidance, anger management, life skills, wellness, or dispute resolution.
5. Referral of child to a service provider for services related to:
  - a) At risk youth
  - 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 **7.11 of the Texas Education Code**.
6. Community-Based Services
7. Mental Health Screening and Clinical assessment - Requires additional court order
8. Counseling, including private or in-school counseling.
9. Mentoring Services
10. Participation in mediation or other dispute resolution processes
11. Submit to drug or alcohol testing
12. Requiring a child to:
  - a) Participate in mediation or other dispute resolution processes
  - b) Submit to alcohol or drug testing
  - c) Substantially comply with a physicians or other licenses medical or mental health professional's course of treatment
13. 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
  - c) Or perform any other reasonable action determined by the court.

## **V. PROHIBITED STRATEGIES**

A diversion strategy may not require a child who is a home-schooled student, as defined by **Section 29.916 of the Texas Education Code**, to:

1. Attend an elementary school or secondary school, or

2. Use an educational curriculum other than the curriculum selected by the parent.

**VI. AGREEMENT WITH SERVICE PROVIDER**

This section left blank for further resources with a potential service provider.

**VII. YOUTH DIVERSION COORDINATOR**

The Youth Diversion Coordinator for this court is designated as Tiffany Acuna, and is responsible for the following:

1. Determine whether the child is eligible to participate in the plan.
2. Employing strategies authorized by this plan
3. Presenting and maintaining diversion agreements
4. Monitoring diversions
5. Maintaining records regarding whether one or more diversions were successful or unsuccessful.
6. Coordinating referrals to the court.

**VIII. 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 under ***Texas CCP 45.309 or 45.310.***

**IX. INTERMEDIATE DIVERSION**

A charge referred to this court, but has not been filed, is eligible for intermediate diversion. The Youth Diversion Coordinator shall advise the child and the child's parents before the case is filed that the case may be diverted under this plan for a period not to exceed 180 days. The child must be eligible under the guidelines in the ***Texas Code of Criminal Procedure and Section III*** of this plan.

**X. DIVERSION BY JUDGE**

If a charge is filed with the court, and the child is eligible for diversion, the Judge shall divert the case under ***Texas Code of Criminal Procedure 45.310.*** The child must be eligible under guidelines in the ***Texas Code of Criminal Procedure and Section III*** of this plan.

**XI. REFERRAL TO COURT**

The court shall conduct a non-adversarial hearing for a child that does not successfully complete the terms of the diversion, and the case is referred to the court. This hearing is designed for the judge to address the child and the child's

parents to determine whether a diversion should be declared unsuccessful by the court. The court may also hear from any person who may be of assistance to the child for the court to determine what is in the best interests of the child and the long-term safety of the community. The court has options on how to proceed depending on the outcome of the hearing pursuant to ***Texas Code of Criminal Procedure 45.311 – Referral to Court.***

**XII. DIVERSION ADMINISTRATIVE FEE**

The clerk of this court may collect a \$50 administrative fee to defray the cost of the diversion of the child’s case under this plan. However, the fee may not be collected unless specified as a term of the diversion agreement accepted by the child’s parent. If the fee is not paid after giving the child’s parent an opportunity to be heard, the court shall order the parent, if financially able, to pay the fee to the clerk of the court. The Court shall waive the fee of the child’s parent is indigent or does not have sufficient resources or income to pay the fee. If the parent is ordered to pay and is determined to have sufficient resources and is not deemed indigent, and fails to pay, this is enforceable against the party by contempt.

**XIII. DIVERSION RECORDS – EXPUNGMENT**

This plan requires the court to maintain statistical records for each strategy authorized by this chapter. Other than statistical records, all other records generated under this plan and the ***Texas Code of Criminal Procedure*** or confidential pursuant to ***Art. 45.0217 – Texas Code of Criminal Procedure***. All records of a diversion pertaining to a child under this plan shall be expunged without the requirement of a motion or request, on the child’s 18<sup>th</sup> birthday.

**XIV. LIABILITY**

See ***Texas Code of Criminal Procedure Art. 45.049 (f) and (i)***

**XV. STATE LAW CITATION**

Refer to ***Texas Code of Criminal Procedure, Chapter 45, Subchapter E – Youth Diversion.***

APPENDIX “A”  
DIVERSION STRATEGY RESOURCES

1. ONLINE EDUCATIONAL OPPORTUNITIES
  - a. 3<sup>RD</sup> MILLENNIUM
    - i. <https://3rdmil.com/>

- b. **COURSE FOR COURT.COM**
  - i. <https://courseforcourt.com>
- c. **TEXAS COURT CLASSES**
  - i. <https://texascourtclasses.com/court-ordered-classes/>
- d. **TEXAS DEPARTMENT OF LICENSING AND REGULATION**
  - i. <https://www.tdlr.texas.gov/court-ordered/>

