

DIVERSION ELIGIBILITY AND IN-TAKE PROCESS

Under current law, there is no requirement for diversion, nor are there uniform criteria for deciding if a child qualifies. According to Article 45.304, a child must be diverted from formal criminal prosecution as laid out in Subchapter E, except in certain cases:

1. A child may only enter into a diversion agreement once every 365 days.
2. A child is ineligible for diversion if they previously had an unsuccessful diversion under Subchapter E.
3. Diversion is not allowed if the prosecutor objects.
4. A child cannot be diverted from criminal prosecution without written consent from both the child and the child's parent.

These guidelines help ensure that diversion is applied thoughtfully, with specific limits and permissions in place.

IN-TAKE PROCESS:

Instead of overhauling the existing processes used in municipal and justice courts, H.B. 3186 aims to enhance youth diversion in these courts by adding a new subchapter (Subchapter E) to Chapter 45 of the Code of Criminal Procedure. Legislative records indicate that Subchapter E was created with the following goals:

1. **Reduce Recidivism:** Address and prevent repeat offenses and problematic behaviors through early intervention without having to pursue criminal charges against youth in municipal and justice courts.
2. **Identify and Support At-Risk Youth:** Recognize youth who may have mental health issues, substance use challenges, or developmental disabilities, and, when appropriate, refer them to early intervention services as outlined in Subchapter D, Chapter 264 of the Family Code.
3. **Focus on Accountability and Community Safety:** Permit diversion for youth charged with certain minor offenses, promoting personal responsibility for both the youth and their parents, while also enhancing the safety of the community.
4. **Encourage Collaboration:** Strengthen partnerships between government entities, schools, and nonprofit organizations to develop effective local and regional diversion strategies for both rural and urban communities.

This approach is designed to give courts effective tools, just like the ones in this toolbox, to address youth issues constructively, encouraging accountability while providing needed support.

In-Take Process has not changed. During the in-take process, the youth and parent/guardian will meet with the Youth Court Coordinator to:

Determine Eligibility: Use the Diversion Eligibility Checklist to assess if the child qualifies.

If Eligible: Have the child fill out the Basic Questionnaire.

Choose the Best Diversion Strategy for the child's situation.

Sign the Agreement: Ensure both the child and parent sign the youth diversion agreement.

Collect the \$50 Admin Fee (optional).

Provide Tools and Referrals: Give the child and parent the resources they need to complete the diversion program.

Diversion Eligibility Checklist

Youth Diversion Coordinator: _____

Date _____

NAME OF CHILD: _____

STEP ONE: ELIGIBILITY QUESTIONS TO DETERMINE IF APPLICANT (CHILD) IS ELIGIBLE FOR DIVERSION

MUST ANSWER NO:

- (1) Has the child entered into a diversion agreement within the last 365-days?
- (2) Is the charge a traffic offense?
- (3) Has the child had a previous **UNSUCCESSFUL diversion?** (Under Subchapter E;)
- (4) Does your prosecutor object to the diversion?

MUST ANSWER YES:

- Is diversion in the best interest of the child?
- Is the charge a Class C Misdemeanor punishable by a fine only?
- Does diversion promote long-term safety to the community?
- Does the child and parent understand that diversion is optional?
- Does the child and parent understand they can terminate the diversion at any time?
- Does the child and parent understand that if diversion is terminated, the case will be referred to court?
- Do you have written consent from both the child and the parent for diversion?

Is applicant eligible? _____ If applicant is NOT eligible for diversion, skip Step two and go to page titled:
When Child is NOT Eligible for Diversion

STEP TWO:

IN-TAKE PROCESS

- Child completes Basic Questionnaire to identify remorse and responsibility for the charges. Based on the responses, an Advanced Questionnaire maybe administered to identify mental health or drug abuse issues. An optional parent/guardian questionnaire is available.
- Based on your findings, determined the best diversion strategy for the child.
- Child and Parent sign **TX YOUTH DIVERSION PLAN AGREEMENT**
- ASSESS (OPTIONAL) \$50 ADMIN FEE
- Provided Child and Parent the tools and referrals needed to successfully complete diversion.
- Does Child & Parent understand what they must do to have the charge diverted?

STEP THREE:

DETERMINATION: Diversion Successful or Diversion Unsuccessful

- If diversion **WAS successful**, file Dismissal of Charge Pursuant to Diversion Agreement to close the case.
- If diversion **WAS NOT successful**, file Referral to Court for Hearing and Order on Referral Hearing for Non-Compliance

When Child is NOT Eligible for Diversion

If applicant is NOT Eligible for Diversion or chooses diversion by judge:

You can:

- Refer to an educational course (see referral forms)
- Refer to a 'Live' peer group session (see referral form)
- Traffic Offense, referred to TXDriveSmart.com (see referral form)
- Other: _____

If applicant is NOT eligible because the charge is NOT a Class C Misdemeanor, or chooses diversion by judge you can: Refer to one of these websites and order a course the best aligns with their charge.

www.CourtSolutionsOnline.com (See referral forms starting on Page 28 – large assortment of classes)

www.JuvClass.com (See referral forms starting on page 29 – 15 courses designed for juveniles)

www.JuvImpact.com (See referral form on page 30 – 3 Diversion Life Skills Classes)

www.PeerGroupOnline.com (See referral form on page 31 – 'LIVE' Peer Groups with Mentors)

www.SchoolImpact.org (Visit Website for Companion classes for Schools and School Resource Officers)

www.TXDriveSmart.com **TRAFFIC VIOLATION: If applicant is NOT eligible because the charge was a traffic violation:** Refer to a 6 Hour Texas State Approved Defensive Driving Course (see referral form)
Note: Although H.B. 3186 excludes traffic offenses from the scope of statutory diversion under Subchapter E, this exclusion does not apply to amendments made in Article 45.041(b-3). Therefore, even children convicted of traffic offenses must be allowed to choose how they will fulfill the judgment. A Texas Approved Defensive Driving course can be used to fulfilled the traffic violation.

www.ParentingTexas.com Companion classes for parents at low or no cost. Classes include, What You Need to Know About Going to Court, Discipline Education for Parents, Drug & Alcohol Guide for Parents, Truancy Prevention Guide for Parents, Child Sexual Abuse and Awareness and Domestic Violence Awareness

Contact us for more information: info@CourtSolutionsOnline.com Or, send a text message: 830-372-4555