

THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (August 2024)

What City Officials Should Know About Youth Diversion

The Texas Youth Diversion and Early Intervention Act, passed by the 88th Texas Legislature in 2023 as House Bill 3186, requires redirecting children accused of certain Class C misdemeanors away from formal prosecution. Until January 1, 2025, municipal judges and justices of the peace can only order child defendants to complete a class or some other program after a case has resulted in a conviction or deferral of disposition. Youth diversion 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.

What Is Diversion?

“Diversion” is defined as an intervention strategy aimed at redirecting a child otherwise facing formal criminal prosecution while holding them accountable for their actions. Currently, a citation or complaint filed against a child (age 10-16) leads to a court appearance possibly followed by a trial, criminal sentence, or deferred disposition. These can result in fines and fees owed and a criminal record. Diversion creates an alternative process that focuses on preventing further criminal conduct without imposing fines or punitive measures unrelated to the child's accountability and rehabilitation.

Effective Dates and Implementation Timeline

The new law went into effect on January 1, 2024. The requirement to divert children, however, only applies to offenses committed on or after January 1, 2025. All justice and municipal courts are required to adopt a youth diversion plan by January 1, 2025. These written plans will outline the strategies and processes for diverting children from formal criminal prosecution. To promote collaboration and the leveraging of resources, Article 45.306(d) of the Code of Criminal Procedure authorizes local governments to enter into an agreement to create a regional youth diversion plan and collaborate in the implementation of Subchapter E per Chapter 791 of the Government Code (Interlocal Cooperation Contracts). Similarly, because local governments may not have adequate staffing resources, a youth diversion plan may include an agreement with a service provider to provide services for a diversion strategy.

Court personnel across the state have begun developing diversion plans and have resources and training available to them from TMCEC.

One Size Does Not Fit All

Courts may choose to offer “intermediate diversion.” If the youth diversion plan provides for intermediate diversion, a youth diversion coordinator must advise a child and the child’s parent, before a case is filed, that the case may be diverted. All courts must offer “diversion by judge,” which requires a charge to be dismissed by the court if the child does not contest the charge, is eligible for diversion, and accepts the terms of the diversion agreement.

Local Funds Are Available for Plans and Staffing

Courts offering intermediate diversion may consider hiring a juvenile case manager. While this would certainly cost money, there are funds available. Every court has been collecting the Local Consolidated Fee since January of 2020. Five dollars of that fee went into a dedicated fund called the Local Truancy Prevention and Diversion Fund. Courts without a juvenile case manager had no way to spend that money until January 1, 2024. On that date, the fund was renamed as the Local Youth Diversion Fund. Courts with juvenile case managers can use this money to finance the salary, benefits, training, travel, supplies, and other necessary expenses related to the position of juvenile case manager. Municipalities without a juvenile case manager may use the fund to pay for support of a local mental health authority, juvenile alcohol and substance abuse programs, and other projects designated to prevent or reduce the number of juvenile referrals to court, as long as money from the fund is not used to supplement the income of an employee whose primary role is not that of juvenile case manager.

Additionally, municipal courts collect a State Consolidated Fee of \$62 on most cases. Much like the Local Consolidated Fee, that fee is divided between 19 accounts (but this time the accounts are maintained by the state). Just over 2.5% of that fee will be allocated to the State's Youth Diversion Account, in the State's general fund. Local governments may request funds from the account to provide youth diversion services.

The Brief is a periodic briefing for Texas mayors, city council members, and other local officials highlighting issues and increasing awareness and understanding of municipal courts in the Lone Star State. *The Brief* is part of TMCEC's public information and education campaign, *Councils, Courts, and Cities* (C3). For more information about TMCEC, visit: www.tmcec.com.

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