Henrietta Municipal Court
Henrietta, Clay County, Texas

HENRIETTA MUNICIPAL COURT

YOUTH DIVERSION PLAN

EFFECTIVE ON OFFENSES OCCURING ON OR AFTER JANUARY 1st, 2025

214 N. Main Street - P.O. Box 71
Henrietta, Texas 76365

Phone: 940.538.6531

Fax: 940.264.4161

Henrietta Municipal Court Youth Diversion Program

All words and phrases contained herein shall be construed according to definitions in Article 45 of the Texas Code of Criminal Procedure, where provided.

I. Objective

The purpose of this program and its related procedures is to:

A. Reduce recidivism and the occurrence of at-risk behavior through intervention without criminal adjudication.
B. Identify at-risk juveniles utilizing a social service approach.
C. Divert instances of deviant behavior from criminal adjudication with an emphasis on therapeutic strategies for accountability and responsibility of the child and the child's parent(s), while promoting public safety and order.
D. Collaborate with all community resources available to achieve these objectives.

II. Applicability

This program will apply to any behavior that could be formally charged as a criminal offense against a child within the jurisdiction of this Court. *Nothing in this procedure precludes the State from referring to a child as a Child in Need of Supervision under Title 3 of the Texas Family Code, or a permissive or mandatory waiver of jurisdiction and transfer under Section 51.08 of the Texas Family Code.*

III. Eligibility

To be eligible to participate in the youth diversion program, the following requirements must be met.

- **a. Defendant must be under 17 years of age at the time of the alleged offense**
- **b. Must not have been diverted in the previous 365 days**
    - **A. Must file an affidavit with court that states Defendant has not been in a diversion program that has been signed and agreed to.**
    - **B. Have no objections from the prosecutor**
        1. **Signed form from the prosecutor with approval or disapproval**
    - **C. Have written consent of the Defendant and parent or legal guardian**
        1. **Court will provide form**

IV. Offense Types

The court must divert any fine-only misdemeanor alleged to have been committed by an eligible defendant.

This does not include offenses as described in:

a. Chapter 720 of the transportation code,
b. Chapter 521 of the transportation code, or
c. Any rules of the road offense.

V. Court Diversion Requirements

a. Henrietta Municipal Court will be using diversion by court strategy.
b. The citation must be filed with the court.
c. If a diversion agreement is signed, the criminal case will be immediately dismissed, and the diversion process will proceed.
d. The court must divert the case of an eligible defendant without requiring a plea.
e. Successful compliance with the agreement results in closure of the case and report of a successful diversion.
f. Failure to comply results in referral to the court for a hearing under article 45.311.

VI. Referral for Diversion Program

Non-School related behavior that could be formally charged as a criminal offense within the jurisdiction of this Court may be submitted by referral, citation, or complaint as required by law.

School related offenses shall be referred to the Court by a School Administrator. The referral shall include all school records requested by the County Prosecutor and/or Juvenile Case Manager (Youth Diversion Coordinator), and any disciplinary history and measures.

VII. Intake & Eligibility

Upon review and without objection by the Prosecutor, and with the written consent of the child and child's parent, a child is eligible for the diversion program once every 365 days, but only if he or she has not had a prior diversion plan determined to have been "unsuccessful."

VIII. Diversion Evaluation

The Prosecutor and Juvenile Case Manager (Youth Diversion Coordinator) shall collaborate to determine eligibility and devise a strategy to correct the specific behavior and achieve the objectives of the program, utilizing available resources. Resources may include, but are not limited to, school related disciplinary and educational measures, drug and alcohol evaluation and education programs, tobacco education, self-improvement strategies or classes, leadership training, manners/social skills, anger management, mental health evaluations and recommended services, and any other services that are determined to be necessary to improve empathy, the parent-child relationship, or life skills.

IX. Intermediate Diversion Intake & Implementation

The Juvenile Case Manager (Youth Diversion Coordinator) shall review all the information available and applicable to the child and employ a case plan utilizing a strategy suitable for the rehabilitation of the child. (See Appendix A for a description of strategies and programs that may be utilized) Once a preliminary case plan is recommended, the Juvenile Case Manager shall meet with the parent and child to review the proposed case plan, evaluate the

parent-child relationship, consider parent input, or require the parent to participate in the case plan if appropriate. The diversion plan may be for a reasonable period not to exceed 180 days. Upon successful completion, the case shall be closed and reported as successful to the Court.

X. Diversion Agreement

There shall be a written binding Diversion Agreement that contains the components required in Article 45.309 & 45.310 of the Texas Code of Criminal Procedure. (See Appendix B for applicable law). The objectives shall)

a. consider the child's circumstances,
b. be rationally relevant to the alleged conduct,
c. be realistic to accomplish, and
d. be in the best interest of the child and the community.

The written agreement shall contain the following components as required by law:

a. An identification of the alleged conduct and diversion agreement terms in clear and concise language understandable to the child.
b. Positive and negative consequences of successful completion of, or failure to comply with, the terms of the diversion agreement.
c. An explanation that a guilty plea is not required, and that participation is not an admission of guilt.
d. An explanation of the review and monitoring process of compliance with the diversion agreement.
e. The agreed length of the diversion plan.
f. Signature of the child and parent indicating consent to diversion by each, with the understanding that diversion is optional. Notification that the child and/or the child's parent may terminate the diversion at any time, and acknowledging that upon termination, the case will be referred to court.

XI. Referral to Court - Prosecutor Objection, Declined Intermediate Diversion or Unsuccessful Completion

If the Prosecutor objects, the child and/or parent decline(s), or the child does not successfully complete the Intermediate Diversion Program, the case shall be set for a non-adversarial hearing before the assigned Juvenile Judge. The Judge will confer with all interested parties to determine what is in the best interest of the child, what protects the long-term safety of the community, and whether to:

a. Declare the diversion unsuccessful, and/or
b. Amend or set aside terms in the Diversion Agreement.
c. Extend the diversion period not to exceed one year from the initial start date.
d. Continue the hearing for not more than sixty (60) days to allow additional time for compliance with the terms of the agreement.
e. Require the parent(s) to perform any act, or refrain from performing any act, which the Court determines will increase the likelihood the child will successfully complete the

diversion and comply with any order of the court that is reasonable and necessary for the welfare of the child.

f. Find substantial compliance and successful completion.
g. Refer the case to the prosecutor for filing.
h. Transfer the case to Juvenile Court for an alleged Child in Need of Supervision (CINS) under Section 51.08 of the Texas Family Code.

XII. Court Proceedings

If the diversion is determined unsuccessful, or the child and/or parent declines the Intermediate Diversion, upon filing of a complaint by the Prosecutor, the case shall be set on a regular Juvenile Docket. If the case proceeds to trial, it shall be assigned to the Presiding Judge or an assigned Associate Judge, other than the originally assigned Juvenile Judge, and will proceed to disposition in accordance with Texas Code of Criminal Procedure Article 45.041 (a-2) & (b-3).

XIII. Referral For Non-adversarial Hearing

If a child appears to not have successfully completed the diversion, the court will hold a non-adversarial hearing to confer with the parent and the child. The court may hear from any person the court finds helpful in determining the best path forward. A show-cause notice will be sent out to the parent/child with the hearing date and time.

XIV. Non-adversarial Hearing Outcomes

Options at the hearing include:

a. Amending or setting aside diversion agreement terms,
b. Extending the diversion period for a period not to exceed one year from the initial start date
c. Continuing the hearing up to 60 days,
d. Ordering the parent to perform any act or reframe from any act, or
e. Determining the diversion to be successful or unsuccessful.

XV. Parent Order

Any order to the parent may not have the substantive effect of interfering with a parent's fundamental right to determine how to raise a child, unless the court finds it necessary to prevent significant harm to the child's physical, mental, or emotional health.

Orders to the parent are enforceable by contempt.

An indirect contempt charge can result in Punitive Contempt Orders.
Punishment in the Justice Court can include:

a. $100 fine,
b. Up to three (3) days in jail, or
c. Both fine and confinement.

XVI. Youth Diversion Fees.

The child's parent will be required to pay a fifty dollar ($50.00) administrative fee to defray costs of the diversion program. This fee can be waived if an affidavit of indigency is filed with the court. The fee does not cover the cost of any classes or instruction that may be required by the Diversion Agreement.

The court must maintain a record of all fees paid and the fees must be placed by the Treasurer into a special account used only to offset the costs of the youth diversion program.

XVII. Referral to Prosecutor

All unsuccessful diversions will be referred to the county prosecutor for criminal filing. The statute of limitations will be tolled while on the diversion program. The prosecutor may choose to refile the criminal case and proceed accordingly.

APPENDIX A

Diversion program components* consist of:

- **Case Management case plan - required regular meetings with Juvenile Case Manager, Youth Diversion Coordinator and/or County Attorney, determined on a case-by-case basis.**
- **School visits, where deemed appropriate and necessary.**
- **INDEPTH (4-week tobacco course) - Mandatory for tobacco offenses.**

  American Lung Association Quit Smoking

- **Anger Management - Anger management and conflict resolution classes will help participants understand what to do when anger is out of control. Topics covered: A Self-Scoring Assessment, Controlling Anger, Setting Boundaries, Assertive vs. Aggressive Behavior, Family Conflict Management, and General Conflict Resolutions Skills.**
- **Counseling resources - The Youth Diversion Program coordinator will provide a list of counseling resources, should a child be ordered to complete counseling services. The provider list will include information for mental health care in areas such as addiction and recovery, child and adolescents, marriage and family, and anxiety and depression.**
- **Online Educational classes - Online courses provided by the 3rd Millennium focus on interventions that change offender behavior related to alcohol, marijuana, vaping, prescription drug misuse, shoplifting, domestic violence, and anger-related violations. The classes are evidence-based online courses grounded in the most effective strategies for changing attitudes and behaviors.**

  3rd Millennium

- **Tutoring and/or in school tutorials.**

Parents also receive:

- Face-to-face meetings with the Youth Diversion Coordinator.
- Educational materials.
- A written copy of the youth diversion action plan and agreement.
- Access to help line for children addicted to nicotine.

** This is not an exhaustive list of program components. Other resources may be added, or existing components removed consistent with applicable law, when considered appropriate by the Clay County Youth Early Intervention Diversion Program team.*

APPENDIX B

Applicable law may be found at the following links:

Texas Code of Criminal Procedure Article 45.301 – Definitions (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.301

Texas Code of Criminal Procedure Article 45.302 – Applicability (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.302

Texas Code of Criminal Procedure Article 45.303 – Transfer to Juvenile Court Not Affected (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.303

Texas Code of Criminal Procedure Article 45.304 – Diversion Eligibility (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.304

Texas Code of Criminal Procedure Article 45.305 – Diversion Strategies (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.305

Texas Code of Criminal Procedure Article 45.306 – Youth Diversion Plan (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.308

Texas Code of Criminal Procedure Article 45.307 – Youth Diversion Coordinator (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.307

Texas Code of Criminal Procedure Article 45.308 – Diversion Agreement (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.308

Texas Code of Criminal Procedure Article 45.309 – Intermediate Diversion (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.309

Texas Code of Criminal Procedure Article 45.310 – Diversion by Justice or Judge (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.310

Texas Code of Criminal Procedure Article 45.311 – Referral to Court (Click Here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.311

Texas Code of Criminal Procedure Article 45.312 – Local Youth Diversion Administrative Fee (Click Here) https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.312

Texas Code of Criminal Procedure Article 45.313 – Diversion Records (Click here)
https://texas.public.law/statutes/tex._code_of_crim._proc._article_45.313

§ IN THE MUNICIPAL COURT

§ CITY OF HENRIETTA

§ CLAY 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 "Henrietta Youth Diversion Program" or "Program."

IT IS FURTHER ORDERED that the Program 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 Juvenile Judge, City Prosecutor and Juvenile Case Manager (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 Henrietta Youth Diversion Program shall be maintained on file for public inspection.

SIGNED AND ENTERED on this 1st day of January, 2025.

Lanny R Evans

Municipal Judge, City of Henrietta, Texas