

§ IN THE JUSTICE COURT
§ PRECINCT FOUR
§ ATASCOSA COUNTY, TEXAS

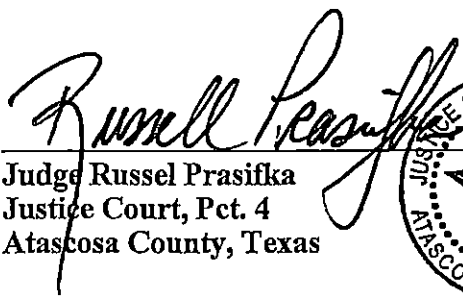
**ORDER ADOPTING A YOUTH DIVERSION PLAN
Known as "4-YOU"**

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 "4-YOU" (YOUTH OPPORTUNITIES FOR UNDERSTANDING) or "Program." This program is a product of the ATASCOSA COUNTY JUSTICE COURT, PRECINCT FOUR.

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 Judge 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 Program shall be maintained on file for public inspection.

SIGNED AND ENTERED on this 1st day of October, 2024.



Judge Russel Prasifka
Justice Court, Pct. 4
Atascosa County, Texas



Atascosa County Justice Court, Precinct Four

"4- YOU" 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 fine-only misdemeanor other than traffic offenses against a child (under 17 years of age at the time of the offense) within the jurisdiction of this Court and ONLY applies to offenses which occur on or after January 1, 2025.

Nothing in this procedure precludes the State from referring 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. Referral for Diversion Program

Article 45.305 (b) provides that strategies may be implemented in three different settings:

- A. **Graduated Sanctions-** Imposed by a school district on a child before a complaint is filed against the child for school offenses of Disruption of Class under *Education Code § 37.124*, Disruption of Transportation under *Education Code § 37.126*, or Disorderly Conduct under *Penal Code §§ 42.01(a)(1), (2), (3), (4), or (5)*. Case would have to move to an intermediate diversion or diversion of the court for failure to comply with school sanctions.
- B. **Intermediate Diversion-** A diversion agreement using diversion strategies without the requirement of a formal court filing. Child and parent must be advised about the option of intermediate diversion before a case is filed. *Code of Criminal Procedure Art. 45.309 (a)*.
- C. **Diversion by the Court-** If a charge involving a child who is eligible for diversion is filed, the court MUST divert the case without requiring a plea to be entered and such case must be dismissed on the court's own motion.

A 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 the courts "Youth Diversion Coordinator", and any disciplinary history and measures.

IV. Intake & Eligibility

Upon review and without objection by the Atascosa County Prosecutor, and with the written consent of the child and child's parent, 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."

V. Diversion Evaluation

The court's "Youth Diversion Coordinator" shall 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.

VI. Intermediate Diversion Intake & Implementation

The court's "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 established, the courts "Youth Diversion Coordinator" 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.

VII. 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. Signatures of the child and parent indicating each's consent to diversion, 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 acknowledgement that upon termination, the case will be referred to court.

VIII. Referral for Hearing and Diversion Outcomes

If a child appears not to have successfully completed the diversion, the court must hold a Non-Adversarial Hearing to confer with the parent and child.

At this Hearing, the court may hear from any person the court finds helpful in determining the best path forward, considering the best interest of the child and long-term safety of the community. *Code of Criminal Procedure Art. 45.311(a),(b).*

Options at the Non-Adversarial Hearing include:

- 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.

Code of Criminal Procedure Art. 45.311 (c).

Unsuccessful diversions may be referred to the juvenile court or to the prosecutor for criminal filing.

IX. Fees and Records

The court may collect from a child's parent (not the child) a \$50.00 Local Youth Diversion Administrative Fee to defray the costs of the diversion as a term in the diversion agreement. *Code of Criminal Procedure Art. 45.312 (i).*

No other costs or fees may be assessed for a diversion. Fee may be waived if parent is indigent. If the parent is able to pay but fails to do so, the court may enforce the order by contempt.

The court must maintain records of all fees paid, and the fees must be placed by the Atascosa County Treasurer into a "Special Account" only used to offset the costs of operating the youth diversion program. *Code of Criminal Procedure Art. n 45.312 (f),(g).*

X. Atascosa County Justice Court, Precinct Four- "Youth Diversion Coordinator"

A new position of "Youth Diversion Coordinator" is created and hereby designates Justice Court Clerk, Irene Torres, to fulfill the responsibilities and duties laid out in the statute. *Code of Criminal Procedure Art. 45.307.*

Duties of the "Youth Diversion Coordinator" include:

- A. Determining whether a child is eligible for diversion;
- B. Employing authorized diversion strategies;
- C. Presenting and maintaining diversion agreements;
- D. Monitoring diversions;
- E. Maintaining records on if diversions are successful or unsuccessful; and
- F. Coordinating referrals to court.
- G. Maintain records of all fees paid.

Code of Criminal Procedure Art. 45.307 (a).