

## **CITY OF LAGO VISTA MUNICIPAL COURT OF RECORD NO.1**

### **YOUTH DIVERSION PLAN (for offenses committed on or after 1/1/25)**

- 1. *DIVERSION BY JUDGE:*** The court shall only participate in Diversion by Judge. The court shall not provide an Intermediate Diversion program.
- 2. *ELIGIBILITY:*** A child shall be eligible for youth diversion for any non-traffic Class C misdemeanor under the following conditions:
  - (a) The child has not participated in a diversion program for the 365 days prior to this offense;
  - (b) The child has never had an unsuccessful diversion;
  - (c) The attorney for the State does not object to the child's participation in diversion;
  - (d) The child and the parent both agree in writing to the child's participation in diversion;
  - (e) The child does not contest the charge;
  - (f) The child is under the age of 17 at the time of the offense.
- 3. *PROCEDURES FOR ENROLLING YOUTH INTO DIVERSION***
  - (a) At docket call, the court will identify those children whose cases appear to be eligible for diversion.
  - (b) The court will further investigate whether each child is, in fact, eligible for diversion. The court will explain the diversion process and the individual diversion plan to each eligible child and parent. This shall include any programs, classes, or community service restitution that is a part of the plan. This will also include the court's \$50 administrative fee and the consequences of the parent's refusal to pay the fee, once the diversion agreement is in place. The court will also explain the child's and the parent's right to refuse diversion.
  - (c) If the child and/or parent refuses diversion, then such will be noted on the docket, and the case will proceed as any other criminal case.

- (d) If the State objects in writing to the child's participation in diversion, then the case will proceed as any other criminal case.
- (e) If the child does not contest the charge and the child and parent both agree to enter into diversion, then child and parent will sign the written diversion agreement and the parent shall pay the \$50 administrative fee. The court shall provide copies of the written agreement to both the child and the parent. The court shall provide a copy to the city prosecutor. The court shall also retain a copy of the diversion agreement.
- (f) Once the diversion agreement has been signed, the court shall dismiss the charge against the child.
- (g) If a child successfully complies with the diversion agreement, then the case shall be closed and reported as "successful."

4. ***DIVERSION STRATEGIES:*** "Diversion strategies" are intervention strategies that redirect a child from formal criminal prosecution and hold the child accountable for the child's actions. The following is a non-exhaustive list of strategies that may be implemented in diversion agreements:

- (a) Requiring a child to participate in a program, including:
  - (1) a court-approved teen court program operated by a service provider;
  - (2) a school-related program;
  - (3) an educational program, including an alcohol awareness program, a tobacco awareness program, or a drug education program;
  - (4) a rehabilitation program; or
  - (5) a self-improvement program, including a program relating to self-esteem, leadership, self-responsibility, empathy, parenting, parental responsibility, manners, violence avoidance, anger management, life skills, wellness, or dispute resolution;
- (b) Referring a child to a service provider for services, including:
  - (1) at-risk youth services under Subchapter D, Chapter 264, Family Code;
  - (2) juvenile case manager services under Article 45.056;
  - (3) work and job skills training, including job interviewing and work preparation;

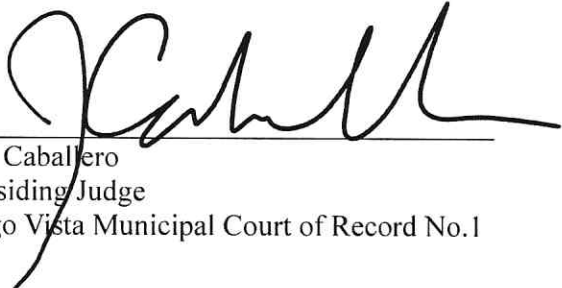
- (4) academic monitoring or tutoring, including preparation for a high school equivalency examination administered under Section 7.111, Education Code;
  - (5) community-based services;
  - (6) mental health screening and clinical assessment;
  - (7) counseling, including private or in-school counseling; or
  - (8) mentoring services;
- (c) Requiring a child to:
  - (1) participate in mediation or other dispute resolution processes;
  - (2) submit to alcohol or drug testing; or
  - (3) substantially comply with a course of treatment prescribed by a physician or other licensed medical or mental health professional; and
- (d) Requiring a child, by court order, to:
  - (1) pay restitution not to exceed \$100 for an offense against property under Title 7, Penal Code;
  - (2) perform not more than 20 hours of community service; or
  - (3) perform any other reasonable action determined by the court.

5. ***REFERRAL TO COURT:*** If a child does not comply with the terms of the diversion agreement, the court shall set a non-adversarial hearing so that the court may determine whether the diversion should be declared unsuccessful. The court may hear from any person who might be of assistance in determining the best interests of the child and the long-term safety of the community. After the hearing, the court may enter an order:

- (a) amending or setting aside terms in the diversion agreement;
- (b) extending the diversion for a period not to exceed one year from the initial start date of the diversion;
- (c) issuing a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of the diversion;

- (d) requiring the child's parent to perform any act or refrain from performing any act as the court determines will increase the likelihood the child will successfully complete the diversion and comply with any other order of the court that is reasonable and necessary for the welfare of the child, provided that such order does not have the substantive effect of interfering with a parent's fundamental right to determine how to raise the parent's child, unless the court finds that the interference is necessary to prevent significant impairment of the child's physical, mental, or emotional health.;
  - (e) finding the diversion successful on the basis of substantial compliance; or
  - (f) finding the diversion unsuccessful and:
    - (1) transferring the child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08, Family Code; or
    - (2) referring the charge to the prosecutor for consideration of re-filing.
6. **TRIAL:** A child, who is otherwise eligible for diversion but does not enter diversion and has a trial, whether bench trial or jury trial, and is found guilty retains the right to enter into diversion. Prior to entering a judgment of conviction, the court shall go through the steps listed above in Section 3 “**PROCEDURES FOR ENROLLING YOUTH INTO DIVERSION.**” If the child and/or parent does not agree to the terms of the diversion agreement, then a judgment of conviction may be entered. If the State objects to the child’s participation in diversion, after a trial, then a judgment of conviction may be entered. If the child and parent agree to the terms of the diversion agreement and the State does not object, then the child and parent shall be allowed to enter into the diversion agreement.
7. **EXPUNCTION:** All records of a diversion pertaining to a child shall be expunged, without the requirement of a motion or request, on the child’s 18<sup>th</sup> birthday.

SIGNED and ORDERED on this the 9<sup>th</sup> day of December 2024.

  
Jay Caballero  
Presiding Judge  
Lago Vista Municipal Court of Record No.1