

**RESOLUTION NO. R010925-02**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LA VERNIA, CREATING A JUVENILE DIVERSION PLAN**

**WHEREAS**, the City of La Vernia is authorized under Texas Article 45.306 (d) of the code of Criminal Procedure, the requirement to divert children, after the new law went into effect January 1, 2024 with the expectation that implementation would begin on January 1<sup>st</sup> 2025; and

**WHEREAS**, the City of La Vernia is authorized under The Texas Article 45.306 (d) 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; and

**WHEREAS**, these written plans will outline the strategies and processes for diverting children from formal criminal prosecution; and

**WHEREAS**, the City of La Vernia and all its residents will benefit from the Juvenile Diversion Plan by focusing on preventing further criminal conduct.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS THAT:**

**SECTION 1.** The City Council of La Vernia authorizes the adoption of the Juvenile Diversion plan as described in **Exhibit A**.

**SECTION 2.** The “Diversion” is defined as an intervention strategy aimed at redirecting a child otherwise facing formal criminal prosecution while holding them accountable for their actions.

**SECTION 3.** The court may choose to offer intermediate diversion.

**SECTION 4.** The court must offer diversion by judge, which requires a change 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.

**SECTION 5.** All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**SECTION 6.** This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 7.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

**SECTION 8.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

**SECTION 7.** This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 9th day of January 2025.

CITY OF LA VERNIA, TEXAS

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Martin Poore, Mayor

ATTEST:

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Madison Farrow, City Secretary

APPROVED AS TO FORM:

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City Attorney

## **Exhibit A**

**THE CITY OF LA VERNIA YOUTH DIVERSION PLAN**  
**for Justice of the Peace and Municipal Courts**

**I. Description**

As provided by Chapter 45, subchapter “E” of the Texas Code of Criminal Procedure, and contingent on eligibility, a child shall be diverted from formal criminal prosecution through an established Youth Diversion program.

The Youth Diversion Plan allows a child the opportunity to complete a Youth Diversion plan with realistic and reasonable terms, set by the Municipal Court Judge or the Youth Diversion Coordinator. Terms may include a combination of conditions such as community service, an educational program, counseling, letters of apology, and/or restitution, etc. A child’s participation is voluntary and requires the child to accept responsibility for his or her conduct and engage in a diversion agreement.

The Juvenile Case Manager or Youth Diversion Coordinator will monitor the child’s compliance throughout their participation in the program which may run up to 180 days. If the child satisfies all the requirements of their diversion agreement, there will be no further proceedings related to the case. If the child withdraws or does not successfully complete the diversion agreement, the Municipal Court will conduct a hearing to determine if the diversion was unsuccessful. If it is determined the diversion measures were unsuccessful, the court may transfer the child to a juvenile court or formally file the charge against the child for criminal prosecution, with the prosecutor’s approval.

If it is determined that more time is necessary for a young person to successfully complete the diversion, a diversion contract can be extended and/or adjusted.

**II. Eligibility**

1. The child is charged with a misdemeanor offense, punishable by fine only, other than a traffic offense.
2. A child has not entered into a diversion agreement in the past 365 days.
3. A child is not eligible for diversion if the child previously had an unsuccessful diversion.
4. A child is not eligible for diversion if a diversion is objected to by the attorney representing the state.

5. A child may not be diverted from criminal prosecution without the consent of the child and the child's parent/guardian.
6. The child is at least 10 years of age and younger than 17 years of age.

### **III. Youth Diversion Goals**

1. Prevent formal criminal prosecution.
2. Empower the child to accept responsibility for his/her actions.
3. Encourage acceptance of their consequences.
4. Deter future criminal conduct.
5. Prevent the creation or extension of criminal records.
6. Reduce the reoccurrence of problem behaviors leading to gateway misdemeanors.
7. Avoid currency punishments for youth and their parent/guardians with limited financial resources.

### **IV. Youth Diversion Plan**

1. Bring together participants (e.g., child and parent(s)/guardian), Judge, Youth Diversion Coordinator or Juvenile Case Manager, prosecutor, etc.)
2. Conduct a meeting and review charge(s).
3. Ensure the child and parent(s)/guardian understand participation is not an admission of guilt and is voluntary.
4. Discuss the best course of action for the diversion plan.
5. Set requirements and ensure the child and parent(s)/guardian comprehend the diversion agreement.
6. The child and parent(s)/guardians accept and sign the individualized, written diversion agreement. The agreement will include term(s) of compliance, duration of the agreement, and a date by which conditions must be met. (These terms and conditions will be set on a case-by-case basis).

## **V. Strategies**

The court may require a child to participate in a program, as referenced in Chapter 45, Code of Criminal Procedure, Subchapter E. Youth Diversion, Art. 45.305, which include but are not limited to:

1. Require a child to participate in a court approved teen court program.
2. Perform Community based services at a non-profit organization or government agency that provides services to the general public that enhances the social welfare and general well-being of the community.
3. Attend a work and job skills training program.
4. Attend a preparatory class for the high school equivalency examination, administered under section 7.11, Texas Education Code
5. Attend an alcohol or drug abuse program.
6. Partake in counseling, including private or in-school counseling.
7. Partake in mentoring.
8. Require the child to pay restitution for an offense against property.
9. Attend a tour of a jail.
10. Perform Community based services at a non-profit organization or government agency that provides services to the general public that enhances the social welfare and general well-being of the community.

## **VI. Case Management**

During the diversion period, the Judge, Youth Diversion Coordinator, Juvenile Case Manager, or Prosecutor will follow-up periodically for the sole purpose of evaluating program progress. Follow-up measures may include:

1. Follow-up calls to the child and parent(s)/guardian.
2. Contacting the Community Service provider.

3. Communication with school officials.
4. Conduct additional meetings as needed.
5. Referrals to educational classes and community service providers.

## VII. **Conclusion of Case**

If the child successfully complies with the terms set in the diversion agreement, the case is closed without further prosecution and is reported as successfully completed. Should the child voluntarily withdraw from the diversion agreement or fail to comply with the terms of the agreement, the court will:

1. Conduct a non-adversarial hearing.
2. Determine if an extension period should be granted to comply with the diversion agreement.
3. Review the terms of the diversion agreement and amend if needed.
4. Transfer the child to juvenile court.
5. Refer the charges to the Prosecutor for filing consideration.
6. Issue an order of contempt against the parent(s)/guardian.