Juvenile Diversion Scenarios

John Lackey
Staff Attorney
Texas Justice Court Training Center

1

Introduction

- Legislative Updates
- Scenarios:
  - Use resources.
  - Feel free to consult others in your office.
  - Can put answer in the chat or raise your virtual hand and we will unmute you to share answers.

2

Resources:

www.tjctc.org (TJCTC website)

- Deskbooks, especially the Juvenile Deskbook for this class.
- Legal question board, charts, forms, webinars, modules, etc.

www.txcourts.gov

- Texas Rules of Civil Procedure (TRCP)
- Texas Rules of Evidence (TRE)

statutes.capitol.texas.gov

- Texas Constitution and Statutes

3

TJCTC Programs are an educational endeavor of the Justices of the Peace and Constable's Association of Texas, Inc. and funded by the Texas Court of Criminal Appeals.

Copyright © 2026 Texas Justice Court Training Center

All rights reserved. No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying and recording, or by any information storage or retrieval system without the prior written permission of the Texas Justice Court Training Center unless copying is expressly permitted by federal copyright law.

Address inquiries to:

Permissions: Texas Justice Court Training Center

1701 Directors Blvd. Suite 530 , Austin, TX, 78744

4

Legislative Updates

- Should have juvenile diversion plan in place!
  - As of January 2025
  - See Deskbook and Module for info./resources
- Renumbering of statutes involving juvenile criminal diversion
- 2nd Special Session Changes
  - Effective December 4, 2025, for juvenile diversion changes

5

2nd Special Session Legislative Changes (1 of 2)

- Allows diversion every 12 months (instead of 365 days)
- Allows diversion for more than one offense if arise from same criminal episode
- Repealed requirement for diversion opportunity after a trial

6

2nd Special Session Legislative Changes (2 of 2)

- Change diversion fee to "not to exceed $50", instead of just $50
- We got a definition for "traffic offense"

7

Traffic Offense Defined?

CCP 45A.501:

- (8-a) "Traffic offense" has the meaning assigned by Section 51.02, Family Code.

8

TX Family Code Sec. 51.02

"Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail; or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

9

TX Transp. Code Ch. 729 (1 of 4)

(In part) Sec. 729.001. **Operation of motor vehicle by minor in violation of traffic laws; Offense.** (a) A person who is younger than 17 years of age commits an offense if the person operates a motor vehicle on a public road or highway, a street or alley in a municipality, or a public beach in violation of any traffic law of this state, including:

1) Chapter 502, other than Section 502.282 or 502.412; (Reg. of Vehicles)

10

TX Transp. Code Ch. 729 (2 of 4)

1) Chapter 521, other than an offense under Section 521.457; (Driver's Licenses and Certificates)
2) Subtitle C, other than an offense punishable by imprisonment or by confinement in jail under Section 550.021, 550.022, 550.024, or 550.025; (Rules of the Road offenses)
3) Chapter 601; (Motor Vehicle Safety Responsibility Act)

11

TX Transp. Code Ch. 729 (3 of 4)

5) Chapter 621; (General vehicle size and weight)
6) Chapter 661; and (Motorcycle Protective Headgear)
7) Chapter 681. (Privileged Parking)

12

TX Transp. Code Ch. 729 (4 of 4)

(In part) Sec. 729.002. **Operation of Motor Vehicle by Minor Without License**.

(a) A person who is younger than 17 years of age commits an offense if the person operates a motor vehicle without a driver's license authorizing the operation of a motor vehicle on a:

(1) public road or highway; (2) street or alley in a municipality; or (3) public beach as defined by Section 729.001.

13

Scenarios

14

Scenario 1

You have a juvenile named Citten and her mother, Koko, who want to decline the juvenile diversion program. Do you need a court order stating that? Or if you have correspondence stating that from Coco, is that sufficient? What if they change their minds and consent to diversion, but Coco later wants to withdraw her consent in the middle of the diversion agreement? Can she do that? How should the court handle it?

15

Scenario 2

Mr. Ed and his parents consent to the diversion program. He makes it several months with compliance, but then near the end, fails to comply. After a hearing, the court finds the diversion unsuccessful.

The prosecutor re-files the criminal case, and the jury returns a verdict of guilty. Must the court again offer Mr. Ed diversion? Was this a change in the 2nd Special Session?

The prosecutor takes several months to re-file, and Mr. Ed is now asserting a Statute of Limitations (SOL) defense because it has been 2 years since the offense. Will that defense be successful? Explain your answer.

16

Scenario 3

Lassie is a juvenile who is eligible for diversion. She has brought up participating in a court-approved teen court program operated by a service provider as a part of her diversion.

- Is this allowed as a criminal juvenile diversion strategy?
- If so, any issues with requiring a defendant to participate in this type of program as part of a diversion?
- If Lassie ends up testifying as part of the teen court program, would that testimony be later admissible in your court if diversion fails? Explain your answers.

17

Scenario 4

For each of the below circumstances, decide if the listed factor makes Benji eligible or ineligible (and be ready to explain your answer):

- Benji was 16 years old at the time of the offense, but he turns 17 before the youth diversion program meeting is held.
- Benji and his dad consent to diversion, but you can already tell he has a bad attitude and will not cooperate fully.
- Benji and his dad consent to diversion, but the prosecutor can already tell he has a bad attitude and will not cooperate fully, so she objects.
- Benji is being charged with a Driving Under the Influence of Alcohol by a Minor.

18

Scenario 5

Your office received a citation for Assault by Contact Family Violence. The defendant is 14. You know the court must offer a Juvenile Diversion Plan to the defendant. However, the victim is a custodial parent of the defendant. The court does not know if there is another parent or adult to summons instead of the victim. Is it appropriate for the court to send the summons to the parent(s) of the defendant, knowing that the victim may be the only parent present? Does it matter if the parent/victim is the party that appears with the defendant? When do we give the family violence admonishments?

19

Scenario 6

CCP Art. 45A.512(a) says that clerk may collect from the child's parent an administrative fee not to exceed $50 if part of the diversion agreement. However, you have a great drug/alcohol class in your county that costs money to take, and you would love to require that class as part of your juvenile diversion agreements. Can you require the class and make the defendant's parents pay the providers directly or do you have any other options?

20

Scenario 7

Salem commits an offense on 02/15/25, enters into a diversion agreement on 03/06/25, successfully complies with case closure on 08/25/25. Salem commits a new offense on 01/29/26 and appears before the court on 02/24/26.

- Is he eligible for diversion or have any options?

21

Scenario 8

Salem enters into his new diversion agreement on 04/01/26. The court believes Salem has failed to comply and holds a hearing on 08/27/26. To what date can the court extend Salem's agreement, if desired? Any other options for the court to order after the hearing?

22

Scenario 9

Flipper is found in a park after dark. He stinks of alcohol, has slurred speech, and cannot walk in a straight line. When the peace officer searches him, liquor is found in his backpack. He is charged with Consumption of Alcohol by a Minor and Possession of Alcohol by a Minor. If he meets all other eligibility, would those charges be eligible for the juvenile diversion program. Explain.

23

Scenario 10

Smokey is a juvenile that received deferred disposition for a charge previously in your court. There is a new filing based on alleged offense that appears to be eligible for the juvenile diversion program, but we have not had the juvenile diversion meeting yet. Your court used the forms provided by TJCTC for the deferred disposition.

- Does this situation qualify as non-compliance with the deferred disposition?
- Does the deferred disposition or previous charge make Smokey ineligible for the diversion?

24

Scenario 11

Wilbur is a home-school child that is charged with criminal mischief under Texas Penal Code Sec. 28.03 for smashing a lawn gnome worth $65.00.

- Can he be ordered to pay restitution as part of his diversion? Explain.
- What about ordering community service?
- Any special considerations since he is home-schooled? Explain your answer.

25

Scenario 12

Scooby is a minor who was charged with theft of property that is less than $100. The case was entered into your juvenile criminal diversion system (not as a criminal case), and the Diversion Coordinator schedules a meeting. Scooby's attorney discusses the charge with prosecuting attorney, and the prosecuting attorney decides to reject the case.

- What are the statutory requirements? Best practices?

26