

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

Text of chapter effective until January 1, 2025

CHAPTER 45. JUSTICE AND MUNICIPAL COURTS

Text of subchapter effective until January 1, 2025

SUBCHAPTER B. PROCEDURES FOR JUSTICE AND MUNICIPAL COURTS

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.014. WARRANT OF ARREST.

(d) In a county with a population of more than 2.5 million that does not have a county attorney, a justice or judge may not issue a warrant under this section for an offense under Section [32.41](#), Penal Code, unless the district attorney has approved the complaint or affidavit on which the warrant is based.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.18 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 11, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 644 (H.B. [2885](#)), Sec. 1, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. [351](#)), Sec. 9, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. [1913](#)), Sec. 8, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 634 (H.B. [569](#)), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 634 (H.B. [569](#)), Sec. 5, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. [4559](#)), Sec. 8, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter

was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504),
Sec. 3.001(6), eff. January 1, 2025.

Art. 45.019. REQUISITES OF COMPLAINT.

(g) In a county with a population of more than 2.5 million that does not have a county attorney, a complaint for an offense under Section 32.41, Penal Code, must be approved by the district attorney, regardless of whether a collection proceeding is initiated by the district attorney under Section 32.41(e), Penal Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.17 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 16, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 644 (H.B. 2885), Sec. 2, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 9, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504),
Sec. 3.001(6), eff. January 1, 2025.

Art. 45.0215. PLEA BY MINOR AND APPEARANCE OF PARENT.

(a) Subject to the requirements of Subchapter E, this article applies to a defendant who has not had the disabilities of minority removed and has been:

(1) charged with an offense other than an offense under Section 43.261, Penal Code, if the defendant is younger than 17 years of age; or

(2) charged with an offense under Section 43.261, Penal Code, if the defendant is younger than 18 years of age.

Added by Acts 1997, 75th Leg., ch. 193, Sec. 1, eff. Sept. 1, 1997. Renumbered from Vernon's Ann.C.C.P. art. 45.331 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 19, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 33, eff.

September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. 407), Sec. 12, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 3, eff. January 1, 2024.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.031. COUNSEL FOR STATE NOT PRESENT. (a) If the state is not represented by counsel when the case is called for trial, the justice or judge may:

- (1) postpone the trial to a date certain;
- (2) appoint any competent attorney as an attorney pro tem to represent the state, notwithstanding Article 2.07; or
- (3) proceed to trial.

(b) An attorney appointed under Subsection (a) is qualified to perform the duties of the office of the attorney representing the state and may be paid a reasonable fee for performing those duties. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.36 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 29, eff. Sept. 1, 1999

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 697 (H.B. 1603), Sec. 1, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.041. JUDGMENT.

(a-2) In a case involving a child who is eligible for diversion under Article 45.304 that results in a trial, if the court determines that the evidence presented in a bench trial would

support a finding of guilt, or if a jury returns a verdict of guilty, the court shall provide the child and the child's parents the opportunity to accept placement in diversion, under Article 45.310, instead of entering an adjudication of guilt. If the child and the child's parents accept the opportunity for placement in diversion under Article 45.310, the court shall place the child in diversion. If the child and the child's parents decline the opportunity for placement in diversion under Article 45.310, the court shall find the child guilty and proceed to sentencing.

(b-3) If a diversion is not required under Subchapter E or Subsection (a-2), a judge shall allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.049; or

(2) paying the fine and costs in a manner described by Subsection (b).

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2990, ch. 987, Sec. 5, eff. June 15, 1971. Renumbered from Vernon's Ann.C.C.P. art. 45.50 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 39, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1393 (H.B. 485), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 464 (H.B. 27), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1320 (S.B. 395), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 5, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. 351), Sec. 11, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. 1913), Sec. 10, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 3.13(3), eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 634 (H.B. 569), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 788 (H.B. 80), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 4, eff. January 1, 2024.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.045. CAPIAS PRO FINE.

(c) This article does not limit the authority of a court to order a child taken into custody under Article 45.058.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2991, ch. 987, Sec. 6, eff. June 15, 1971. Renumbered from Vernon's Ann.C.C.P. art. 45.51 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 45, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 283, Sec. 31, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. 3060), Sec. 16, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1171 (S.B. 873), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 9.02, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. 351), Sec. 13, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. 1913), Sec. 12, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 3.10, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 3.11, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 3.13(4), eff. January 1, 2020.

Acts 2023, 88th Leg., R.S., Ch. 425 (H.B. 1819), Sec. 1, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.049. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS.

(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county or an entity that accepts a defendant under this article or Subchapter E to perform community service is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article or Subchapter E if the act or failure to act:

(1) was performed pursuant to court order; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(i) A community supervision and corrections department, a local juvenile probation department, or a court-related services office may provide the administrative and other services necessary for supervision of a defendant required to perform community service under this article.

Added by Acts 1993, 73rd Leg., ch. 298, Sec. 1, eff. May 27, 1993. Renumbered from Vernon's Ann.C.C.P. art. 45.521 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 49, eff. Sept. 1, 1999; Subsec. (e) amended by Acts 2003, 78th Leg., ch. 209, Sec. 66(a), eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1113 (H.B. 3692), Sec. 5.

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. 3060), Sec. 17, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec.

27.001(2), eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. 351), Sec. 16, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. 1913), Sec. 15, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 4.011, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 5, eff. January 1, 2024.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION.

(b) During the deferral period, the judge may require the defendant to:

(1) post a bond in the amount of the fine assessed as punishment for the offense to secure payment of the fine;

(2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed as punishment for the offense;

(3) submit to professional counseling;

(4) submit to diagnostic testing for alcohol or a controlled substance or drug;

(5) submit to a psychosocial assessment;

(6) successfully complete an alcohol awareness or substance misuse treatment or education program, such as:

(A) a substance misuse education program that is designed to educate persons on the dangers of substance misuse in accordance with Section 521.374(a)(1), Transportation Code, and that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code; or

(B) an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code, that is regulated by the

Texas Department of Licensing and Regulation under Chapter 171, Government Code;

(7) pay as reimbursement fees the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;

(8) complete a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;

(9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and

(10) comply with any other reasonable condition.

(g) If a judge requires a defendant under Subsection (b) to successfully complete an alcohol awareness program or substance misuse education program as described by Subdivision (6) of that subsection, unless the judge determines that the defendant is indigent and unable to pay the cost, the judge shall require the defendant to pay a reimbursement fee for the cost of the program. The judge may allow the defendant to pay the fee in installments during the deferral period.

Added by Acts 1981, 67th Leg., p. 894, ch. 318, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 226, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 399, Sec. 1, eff. June 14, 1989. Subsec. (1) amended by Acts 1991, 72nd Leg., ch. 775, Sec. 19, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., ch. 835, Sec. 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 5.07, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 532, Sec. 1, eff. Sept. 1, 1999; 1999, 76th Leg., ch. 1387, Sec. 1, eff. Sept. 1, 1999. Renumbered from Vernon's Ann.C.C.P. art. 45.54 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 50, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 3.002, eff. Sept. 1, 2001; Amended by Acts 2003, 78th Leg., ch. 991, Sec. 12, eff. Sept. 1, 2003; Amended by Acts 2003, 78th Leg., ch. 1182, Sec. 1, eff. Sept. 1, 2003; Subsec. (c) amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 4.01, eff. Jan. 11, 2004; Subsec. (c-1) amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 4.03, eff. Jan. 11,

2004.

Amended by:

Acts 2005, 79th Leg., Ch. 90 (S.B. [1005](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 3.01(a), eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 357 (S.B. [1257](#)), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 508 (S.B. [545](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 714 (H.B. [2267](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 3.001, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1121 (H.B. [1544](#)), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 227 (H.B. [350](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 777 (H.B. [1964](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 914 (S.B. [1330](#)), Sec. 1, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 1004 (H.B. [642](#)), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. [351](#)), Sec. 21, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. [1913](#)), Sec. 20, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. [346](#)), Sec. 2.19, eff. January 1, 2020.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. [346](#)), Sec. 2.20, eff. January 1, 2020.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 663 (H.B. [1560](#)), Sec. 5.58, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. [1480](#)), Sec. 11, eff. September 1, 2021.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1021 (H.B. 5183), Sec. 4, eff. June 18, 2023.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.0531. DISMISSAL OF PARENT CONTRIBUTING TO NONATTENDANCE CHARGE.

(a) Subject to Subsection (b) and notwithstanding any other law, a county, justice, or municipal court, at the court's discretion, may dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093, Education Code, if the court finds that a dismissal would be in the interest of justice because:

(1) there is a low likelihood of recidivism by the defendant; or

(2) sufficient justification exists for the failure to attend school.

(b) Notwithstanding any other law, a county, justice, or municipal court shall dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093, Education Code, if the parent completes the terms of an agreement entered into by the parent and the school district at which the parent's child attends under Section 25.094, Education Code, within the period required by Subsection (b) of that section. If agreed to by the school district that is a party to the agreement, the court may extend the period under Section 25.094(b), Education Code, during which a parent may fulfill the terms of the agreement.

Added by Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 3, eff. September 1, 2015.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 749 (H.B. 3917), Sec. 1, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec.

3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.056. JUVENILE CASE MANAGERS. (a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a juvenile case manager or contract for a juvenile case manager to provide services in cases involving:

(A) youth diversion under Subchapter E;

(B) children who are before a court consistent with the court's statutory powers; or

(C) children who are referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians;

(2) employ or contract for the services of one or more juvenile case managers who:

(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and

(B) may provide:

(i) prevention services to a child considered at risk of entering the juvenile justice system; and

(ii) youth diversion services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3) agree in accordance with Chapter 791, Government Code, with any appropriate governmental entity to jointly employ a juvenile case manager, jointly contract for juvenile case manager services, or jointly contribute to the costs of a juvenile case manager or juvenile case manager services described by Subdivisions

(1) and (2).

(b) A local entity may apply or more than one local entity may jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers or contracting for juvenile case manager services from funds appropriated to the governor's office or otherwise available for purposes of youth diversion. To be eligible for reimbursement, the entity applying must present to the governor's office a comprehensive plan to reduce juvenile crimes in the entity's jurisdiction and a youth diversion plan under Article 45.306 that addresses the role of the juvenile case manager in that effort.

(c) An entity that jointly employs a juvenile case manager, jointly contracts for juvenile case manager services, or jointly contributes to the costs of a juvenile case manager or juvenile case manager services under Subsection (a)(3) employs a juvenile case manager for purposes of Chapter 102 of this code and Chapter 102, Government Code.

(d) The court or governing body may pay from the local youth diversion fund established under Section 134.156, Local Government Code:

(1) the salary and benefits of a juvenile case manager;

(2) the costs of contracting for juvenile case manager services; and

(3) the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager and juvenile case manager services.

(e) A juvenile case manager shall give priority to cases brought under Section 25.093, Education Code, Chapter 65, Family Code, and youth diversion under Subchapter E of this chapter.

(g) A court or governmental entity under this article shall implement the rules adopted under Subsection (f).

(h) The commissioners court or governing body of the municipality that administers a local youth diversion fund under Section 134.156, Local Government Code, shall require periodic review of juvenile case managers to ensure the implementation of

the rules adopted under Subsection (f).

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 283, Sec. 33, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. [1575](#)), Sec. 34, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 868 (S.B. [61](#)), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 868 (S.B. [61](#)), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1055 (S.B. [209](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1098 (S.B. [1489](#)), Sec. 16, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 22.001(8), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 22.002(4), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1213 (S.B. [1419](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. [393](#)), Sec. 7, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. [2398](#)), Sec. 4, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. [346](#)), Sec. 4.04, eff. January 1, 2020.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 6, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 7, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 8, eff. January 1, 2024.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the amendment of this article, this chapter

was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504),
Sec. 3.001(6), eff. January 1, 2025.

Art. 45.057. OFFENSES COMMITTED BY JUVENILES.

(b) On a finding by a justice or municipal court that a child committed an offense that the court has jurisdiction of under Article 4.11 or 4.14, the court has jurisdiction to enter an order:

(1) referring the child or the child's parent for services under Section 137.152, Human Resources Code;

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and, if the program involves the expenditure of municipal or county funds, that is approved by the governing body of the municipality or county commissioners court, as applicable, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program; or

(3) requiring that the child's parent do any act or refrain from doing any act that the court determines will increase the likelihood that the child will comply with the orders of the court and that is reasonable and necessary for the welfare of the child, including:

(A) attend a parenting class or parental responsibility program; and

(B) attend the child's school classes or functions.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001. Subsecs. (a), (b), (e), (h) amended by Acts 2003, 78th Leg., ch. 283, Sec. 34, eff. Sept. 1, 2003. Subsecs. (i) to (l) added by Acts 2003, 78th Leg., ch. 283, Sec. 34, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 777 (H.B. 1964), Sec. 3, eff. September 1, 2011.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1033 (S.B. 24), Sec. 7, eff. September 1, 2023.

Without reference to the amendment of this article, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Art. 45.060. UNADJUDICATED CHILDREN, NOW ADULTS; NOTICE ON REACHING AGE OF MAJORITY; OFFENSE. (a) Except as provided by Article 45.058, an individual may not be taken into secured custody for offenses alleged to have occurred before the individual's 17th birthday.

Added by Acts 2003, 78th Leg., ch. 283, Sec. 35, eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 425 (H.B. 1819), Sec. 2, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

Without reference to the addition of this subchapter, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 3.001(6), eff. January 1, 2025.

SUBCHAPTER E. YOUTH DIVERSION

Art. 45.301. DEFINITIONS. In this subchapter:

(1) "Charge" means a formal or informal allegation of an offense, including a citation, written promise to appear, complaint, or pending complaint.

(2) "Child" has the meaning assigned by Article 45.058(h).

(3) "Court" means a justice court, municipal court, or other court subject to this chapter.

(4) "Diversion" means an intervention strategy that redirects a child from formal criminal prosecution and holds the child accountable for the child's actions. The term includes diversion under Article 45.309 or 45.310.

(5) "Offense" means a misdemeanor punishable by fine only, other than a traffic offense.

(6) "Parent" has the meaning assigned by Article [45.057\(a\)](#).

(7) "Service provider" means a governmental agency, political subdivision, open-enrollment charter school, nonprofit organization, or other entity that provides services to children or families.

(8) "Youth diversion plan" means a plan adopted under Article [45.306](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.302. APPLICABILITY. This subchapter applies only to a child who is alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only, other than a traffic offense.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.303. TRANSFER TO JUVENILE COURT NOT AFFECTED. Nothing in this subchapter precludes:

(1) a case involving a child from being referred, adjudicated, or disposed of as conduct indicating a need for supervision under Title 3, Family Code; or

(2) a waiver of criminal jurisdiction and transfer of a child's case as provided by Section [51.08](#), Family Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.304. DIVERSION ELIGIBILITY. (a) Except as otherwise provided by this subchapter, a child shall be diverted from formal criminal prosecution as provided by this subchapter.

(b) A child is eligible to enter into a diversion agreement under this subchapter only once every 365 days.

(c) A child is not eligible for diversion if the child has previously had an unsuccessful diversion under this subchapter.

(d) A child is not eligible for diversion if a diversion is objected to by the attorney representing the state.

(e) A court may not divert a child from criminal prosecution as provided by this subchapter without the written consent of the child and the child's parent.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.305. DIVERSION STRATEGIES. (a) Diversion strategies include:

(1) requiring a child to participate in a program, including:

(A) a court-approved teen court program operated by a service provider;

(B) a school-related program;

(C) an educational program, including an alcohol awareness program, a tobacco awareness program, or a drug education program;

(D) a rehabilitation program; or

(E) 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;

(2) referring a child to a service provider for services, including:

(A) at-risk youth services under Subchapter D, Chapter [264](#), Family Code;

(B) juvenile case manager services under Article [45.056](#);

(C) work and job skills training, including job interviewing and work preparation;

(D) academic monitoring or tutoring, including preparation for a high school equivalency examination administered under Section [7.111](#), Education Code;

(E) community-based services;

(F) mental health screening and clinical assessment;

(G) counseling, including private or in-school

counseling; or

(H) mentoring services;

(3) requiring a child to:

(A) participate in mediation or other dispute resolution processes;

(B) submit to alcohol or drug testing; or

(C) substantially comply with a course of treatment prescribed by a physician or other licensed medical or mental health professional; and

(4) requiring a child, by court order, to:

(A) pay restitution not to exceed \$100 for an offense against property under Title 7, Penal Code;

(B) perform not more than 20 hours of community service; or

(C) perform any other reasonable action determined by the court.

(b) A diversion strategy may be imposed under:

(1) an intermediate diversion under Article [45.309](#);

(2) a diversion by a justice or judge under Article [45.310](#); or

(3) a system of graduated sanctions for certain school offenses under Section [37.144](#), Education Code.

(c) A diversion strategy under this subchapter may not require a child who is a home-schooled student, as defined by Section [29.916](#), Education Code, to:

(1) attend an elementary or secondary school; or

(2) use an educational curriculum other than the curriculum selected by the parent.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.306. YOUTH DIVERSION PLAN. (a) A youth diversion plan is a written plan that describes the types of strategies that will be used to implement youth diversion. A youth diversion plan does not limit the types of diversion strategies that may be imposed under a diversion agreement under Article [45.308](#).

(b) Each justice and municipal court shall adopt a youth

diversion plan.

(c) A youth diversion plan may be devised for a county or municipality or an individual court within a county or municipality.

(d) In accordance with Chapter 791, Government Code, a local government may enter into an agreement with one or more local governments to create a regional youth diversion plan and collaborate in the implementation of this subchapter.

(e) A youth diversion plan may include an agreement with a service provider to provide services for a diversion strategy.

(f) A youth diversion plan may contain guidelines for disposition or diversion of a child's case by law enforcement. The guidelines are not mandatory.

(g) A current youth diversion plan must be maintained on file for public inspection in each justice and municipal court, including courts that collaborate with one or more counties or municipalities.

(h) A court or local government may adopt rules necessary to coordinate services under a youth diversion plan or to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 2, eff. January 1, 2024.

Art. 45.307. YOUTH DIVERSION COORDINATOR. (a) A court may designate a youth diversion coordinator to assist the court in:

- (1) determining whether a child is eligible for diversion;
- (2) employing a diversion strategy authorized by this subchapter;
- (3) presenting and maintaining diversion agreements;
- (4) monitoring diversions;
- (5) maintaining records regarding whether one or more diversions were successful or unsuccessful; and
- (6) coordinating referrals to court.

(b) The responsibilities of the youth diversion coordinator may be performed by:

- (1) a court administrator or court clerk, or a person

who regularly performs the duties of court administrator or court clerk;

(2) an individual or entity that provides juvenile case manager services under Article [45.056](#);

(3) a court-related services office;

(4) a community supervision and corrections department, including a juvenile probation department;

(5) a county or municipal employee, including a peace officer;

(6) a community volunteer;

(7) an institution of higher education, including a public, private, or independent institution of higher education; or

(8) a qualified nonprofit organization as determined by the court.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.308. DIVERSION AGREEMENT. (a) A diversion agreement must identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation in a diversion under Article [45.309](#) or [45.310](#).

(b) Stated objectives in a diversion agreement must be measurable, realistic, and reasonable and consider the circumstances of the child, the best interests of the child, and the long-term safety of the community.

(c) A diversion agreement must include:

(1) the terms of the agreement, including one or more diversions required to be completed by the child, written in a clear and concise manner and identifying any offense or charge being diverted;

(2) possible outcomes or consequences of a successful diversion and an unsuccessful diversion;

(3) an explanation that participation in a diversion is not an admission of guilt and a guilty plea is not required to participate in a diversion;

(4) an explanation of the process that will be used for

reviewing and monitoring compliance with the terms of the agreement;

(5) the period of the diversion;

(6) a verification that:

(A) the child and the child's parent were notified of the child's rights, including the right to refuse diversion; and

(B) the child knowingly and voluntarily consents to participate in the diversion; and

(7) written acknowledgment and acceptance of the agreement by the child and the child's parent.

(d) The terms of an agreement may vary depending on the circumstances of the child, including the child's age and ability, the charge being diverted, or the diversion strategy used.

(e) A charge may not be filed against a child or, if filed, shall be dismissed by the court if the child:

(1) does not contest the charge;

(2) is eligible for diversion under Article [45.304](#);

and

(3) accepts the terms of the agreement.

(f) Entering into a diversion agreement under this article extends the court's jurisdiction for the term of the agreement.

(g) On entering into a diversion agreement, a copy of the agreement shall be provided to the child and the child's parent, the clerk of the court, a youth diversion coordinator, and any person specified by the youth diversion plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.309. INTERMEDIATE DIVERSION. (a) If provided by a youth diversion plan, a youth diversion coordinator or juvenile case manager shall advise the child and the child's parent before a case is filed that the case may be diverted under this article for a reasonable period not to exceed 180 days if:

(1) the child is eligible for diversion under Article [45.304](#);

(2) diversion is in the best interests of the child and

promotes the long-term safety of the community;

(3) the child and the child's parent consent to diversion with the knowledge that diversion is optional; and

(4) the child and the child's parent are informed that they may terminate the diversion at any time and, if terminated, the case will be referred to court.

(b) The terms of a diversion agreement under this article must be in writing and may include any of the diversion strategies under Article [45.305](#).

(c) The case of a child who successfully complies with the terms of a diversion agreement under this article shall be closed and reported as successful to the court.

(d) A child who does not comply with the terms of a diversion agreement under this article shall be referred to court under Article [45.311](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.310. DIVERSION BY JUSTICE OR JUDGE. (a) If a charge involving a child who is eligible for diversion is filed with a court, a justice or judge shall divert the case under this article as follows:

(1) if the child does not contest the charge, a justice or judge shall divert the case under this article without the child having to enter a plea; or

(2) if the child contests the charge, a justice or judge shall divert the case under this article at the conclusion of trial on a finding of guilt without entering a judgment of conviction as provided by Article [45.041](#).

(b) A diversion under this article may not exceed 180 days.

(c) The terms of a diversion agreement under this article must be in writing and may include any of the diversion strategies described by Article [45.305](#).

(d) The case of a child who successfully complies with the terms of a diversion agreement under this article shall be closed and reported as successful to the court.

(e) A child who does not comply with the terms of a diversion

agreement under this article shall be referred to court for a hearing under Article [45.311](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.311. REFERRAL TO COURT. (a) A court shall conduct a non-adversarial hearing for a child who does not successfully complete the terms of a diversion under Article [45.309](#) or [45.310](#) and is referred to the court.

(b) The hearing is an opportunity for a justice or judge to confer with the child and the child's parent to determine whether a diversion should be declared unsuccessful by the court. The court may also hear from any person who may be of assistance to the child or the court in determining what is in the best interests of the child and the long-term safety of the community.

(c) After the hearing, a court may enter an order:

(1) amending or setting aside terms in the diversion agreement;

(2) extending the diversion for a period not to exceed one year from the initial start date of the diversion;

(3) 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;

(4) subject to Subsection (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;

(5) finding the diversion successful on the basis of substantial compliance; or

(6) finding the diversion unsuccessful and:

(A) transferring the child to juvenile court for alleged conduct indicating a need for supervision under Section [51.08](#), Family Code; or

(B) referring the charge to the prosecutor for consideration of re-filing.

(d) An order under Subsection (c)(4) may 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) An order under Subsection (c)(4) is enforceable against the parent by contempt.

(f) The statute of limitations in Article 12.02(b) is tolled during the diversion period for purposes of Subsection (c)(6)(B).

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 2, eff. January 1, 2024.

Art. 45.312. LOCAL YOUTH DIVERSION ADMINISTRATIVE FEE.

(a) The clerk of a justice or municipal court may collect from a child's parent a \$50 administrative fee to defray the costs of the diversion of the child's case under this subchapter.

(b) The fee under this article may not be collected unless specified as a term of the diversion agreement accepted by the child's parent. If the fee is not paid after giving the child's parent an opportunity to be heard, the court shall order the parent, if financially able, to pay the fee to the clerk of the court.

(c) A court shall waive the fee if the child's parent is indigent or does not have sufficient resources or income to pay the fee.

(d) A court may adopt rules for the waiver of a fee for financial hardship under this article.

(e) An order under Subsection (b) is enforceable against the parent by contempt.

(f) The clerk of the court shall keep a record of the fees collected under this article and shall forward the funds to the county treasurer, municipal treasurer, or person fulfilling the role of a county treasurer or municipal treasurer, as appropriate.

(g) The fee collected under this article shall be deposited in a special account that can be used only to offset the cost of the operations of youth diversion programs under this subchapter.

(h) Except for the fee authorized under Subsection (a), a fee may not be assessed for a child diverted under this subchapter.

(i) The diversion of a child may not be contingent on payment of a fee under this article.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.

Art. 45.313. DIVERSION RECORDS. (a) A justice or municipal court shall maintain statistics for each diversion strategy authorized by this subchapter.

(b) Other than statistical records, all records generated under this subchapter are confidential under Article 45.0217.

(c) All records of a diversion pertaining to a child under this subchapter shall be expunged without the requirement of a motion or request, on the child's 18th birthday.

Added by Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. [3186](#)), Sec. 2, eff. January 1, 2024.