

HB 3186 TEXAS YOUTH DIVERSION
AND EARLY INTERVENTION ACT

ATASCOSA COUNTY JUSTICE OF THE
PEACE, PRECINCT TWO YOUTH
DIVERSION PLAN

The JP2 Diversion Plan has been established and will be implemented on January 1, 2025.

Prior to January 1, 2025, Justice Courts could only order diversion strategies after a case had resulted in a conviction or deferral of disposition. This program has been established to comply with HB3186 and to increase opportunities for the early identification of at-risk youth and the re-directing of children in our community that have been accused of certain gateway Class C Misdemeanors.

Atascosa County Justice of the Peace, Pct. Two currently does not have a need to fill a paid Juvenile Case Manager position nor to appoint one specific clerk to act as a Local Youth Diversion Coordinator. As a whole Atascosa County has not experienced a large amount of Fine only non-traffic offenses to justify the paid Juvenile Case Manager position as evidenced by our Texas Judicial Branch OCA Reports. The Justice Courts by statute must submit an activity report by the 20th of every month which includes all cases filed in the Justice Courts. This report also includes Juvenile cases.

As a result, on January 1, 2025, the tasks and duties of a Youth Diversion Coordinator will be included within the scope of a JP2 Justice Court Clerks role. The Clerks in the JP2 office will assist each other when and if these cases are filed. When this plan is implemented, they will be familiar with the rules and statutes regarding HB 3186 and will follow the guidelines established in the JP2 Youth Diversion Plan.

The need for this position may change as Atascosa County continues to grow and we will re-address this position once we find that our caseload increases in the future.

Per Govt. Code 22.1105(a) In every year that ends in 0 or 5 the Justice of the Peace must complete education related to youth diversion and understanding relevant issues of child welfare, including issues related to mental health and children with disabilities.

***Important Sidenote: Transfer to Juvenile Court is not affected. Article 45.303 does not preclude a case involving a child from being referred, adjudicated or disposed as conduct indicating a need for supervision under Title 3, Family Code or a waiver of criminal jurisdiction and transfer of a child's case as provided by Section 51.08 Family Code.*

HB 3186 MAKES DIVERSION A MANDATORY RULE FOR ALL JP COURTS AND:

****Juvenile/Minor** as defined for the purpose of HB 3186 pertaining to the Justice Court and criminal offenses: A Juvenile is at least 10 years of age but under 17 years of age at the time of committing a criminal offense.

- Mandatorily offered to Juveniles that have been accused of committing Class C misdemeanors punishable by fine only. There is no discretion on the part of the Court whether to offer it or not.
- This plan applies to offenses committed on or after January 1, 2025.
- The Diversion Agreement must have both the consent of the child and the consent of the parent. – Cannot proceed without both signatures.
- REMINDER: Under CCP Art. 45.0217 All records are confidential.
- SUCCESSFUL DIVERSION: All records shall be expunged without the requirement of a motion or request, on the child's 18th Birthday.

WHAT THE DIVERSION AGREEMENT MUST INCLUDE

- The Diversion Plan must be in writing. (See attached JP2 Diversion Agreement).
- The Diversion Plan agreement may not exceed 180 days.
- Must list the details (Requirements) of the Diversion Agreement.
- The Court can require child to be drug tested.
- The Court can require the child to participate or watch Education Programs. – Court may assign. (A list of the educational programs offered for the Diversion program can be found toward the end of this Diversion Plan).
- The Court can require the child to participate in Rehabilitation Programs

Who files the juvenile cases in the JP2 Court?

Citations are turned in to the Justice Court periodically throughout the month. We receive Citations from DPS, Atascosa County Sherriffs Office, Atascosa County Constable Precinct Two, Texas Parks and Wildlife Game Wardens and School Resource officers.

ENTERING THE MINOR'S CASE INTO CASE MANAGEMENT

Once the Clerk determines that the citation received for an eligible offense was issued to a minor the Clerk will manually enter the case as an Admin Case using JV DIV as the Case Category, the description will be listed as JV DIVERSION. This will allow the Court to track the juveniles' cases effectively for statistical purposes and to keep track of the \$50.00 administrative fees paid by the parents to defray the costs of the Diversion of the child's case under this subchapter.

JP2 YOUTH DIVERSION PLAN GUIDELINES AND ELIGIBILITY

Truancy is not included in the Diversion Plan because it is a Civil Case.

Depending on the circumstances, Diversion can take place prior to a charge being filed, after a charge is filed but before a plea is entered or after a finding of guilt at trial. The Statute of limitations is tolled during the process if diversion happens prior to filing.

The JP2 Diversion Plan will call for the charge to be filed only if the diversion is unsuccessful and a non-adversarial hearing has been held. JP2 pledges to do as much as possible to make each Diversion Plan a success. The filing of the charge will be a last resort.

A Diversion strategy may be imposed under:

Intermediate Diversion Article 45.309: Under the Diversion Plan; the child and the child's parent will be advised before a case is filed that the case may be diverted under this article for a reasonable period not to exceed 180 days.

Diversion by a Justice or Judge under Article 45.310: If a charge involving a child who is eligible for Diversion is filed with a court the Judge shall divert the case.

The Justice Court in Precinct two will handle the Diversions initially as an Intermediate Diversion. An admin case will initially be built for the Juvenile and will be handled as such.

The Juvenile Diversion Plan only applies to a child who is alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only other than a traffic offense.

- The Juvenile must be under 17 years of age at the time of the offense.
- This plan applies to offenses committed on or after January 1, 2025.
- The Child has not been diverted in the previous 365 days. This is based on the dates of the agreements, not the date of the Citation or the date of the Court Appearance.
- The Defendant must not have had an unsuccessful diversion.
- There must be no objection by the Atascosa County Attorney's office.
- The Court must have written consent of the defendant and the parent. (Parent includes a person standing in parental relation, a managing conservator, or a custodian).
- The Coordinator Must inform the child and parent that this program is strictly voluntary, and they may terminate the diversion at any time. If terminated the case will be referred to Court. CCP 45.309

GRADUATED SANCTIONS FOR CERTAIN SCHOOL OFFENSES: SECTION 37.144 EDUCATION CODE

A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01 (a)(1),(2),(3),(4), or (5) Penal Code. If the child fails to comply with or complete graduated sanction under 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with the appropriate criminal court in accordance with Section 37.146.

ELIGIBLE SCHOOL OFFENSES

Sec. 37.124. DISRUPTION OF CLASSES.

Sec. 37.126. DISRUPTION OF TRANSPORTATION.

Sec. 42.01. DISORDERLY CONDUCT. (a) (1)(2)(3)(4)(5) Penal Code

Once filed in the JP Court they will be handled within the same guidelines as the Juvenile Non-Traffic Class C Misdemeanors.

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:

- Attend an Elementary or Secondary School
- Use an educational curriculum other than the curriculum selected by the parent.

The Justice Court in Precinct two will handle the cases filed by the schools initially as an Intermediate Diversion. An admin case will initially be built for the Juvenile and will be handled as such.

IF THE JUVENILE IS CONTESTING THE CHARGE (NOT GUILTY PLEA)

The Clerk must first find out at the initial appearance whether the child is contesting the charge. The Clerk will speak to both the parent/guardian and child and will advise them of the option of intermediate diversion. The Court will provide detailed information regarding the strategies, what will be required from the minor, time frame (no more than 180 days) etc.... If the child is contesting the charge the Court will continue with the normal proceedings for a Juvenile formal criminal prosecution. The plea must be made in open court in front of the Judge. The child must be accompanied by the parent/guardian. The Clerk will create a JV criminal case for it and schedule a Bench trial.

When a Bench Trial or Jury Trial is held, and a finding of guilt is determined the clerk must check if the juvenile is eligible for Diversion. If the Juvenile is eligible the Court must offer the Diversion Plan. If they refuse the diversion plan the Court will proceed with the criminal conviction and run the Judgment to include Fine and Court Costs.

IF THE JUVENILE IS NOT CONTESTING THE CHARGE

Once it has been established that the minor is not contesting the charge the clerk will continue to lay out the diversion strategy that has been established for the minors in the JP Court.

They will be informed that this plan is strictly voluntary, and they can choose to end it at any time. If terminated, they will be referred to Court.

Not every diversion will be the same. It will be determined by the violation.

The Diversion plan will be in writing and will list the requirements of the Diversion Agreement in detail. It will identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation. The objectives in this agreement will be measurable, realistic, and reasonable and will take into consideration the circumstances of the child, the best interests of the child, and the long-term safety of the community.

This plan may include agreements with service providers or any other entity that provides services to children. There will be rules adopted for the purpose of coordinating services.

The Justice Court will utilize monies from the Diversion Fund to fund some of the programs that HB3186 suggests the JP Courts can offer or mandate as part of Community Service for these at-risk Juveniles, i.e., Tobacco, Alcohol and Drug Educational Programs, Rehabilitation Programs, Drug Testing, etc.

Currently \$5.00 out of the \$14.00 Local Consolidated Court Cost that is collected from every conviction in the JP Courts goes into an account formerly known as the Truancy Prevention and Diversion Account and is now renamed the Youth Diversion Account. Monies from this account can be used to hire the Juvenile Case Manager as well as programs designed to protect or reduce juvenile referrals to court. Code 133.102(e) 133.125, 134.103 (b), 134.156 Code of Criminal Procedure Article 45.056

Another way to fund these programs would be by utilizing the Juvenile Delinquency Prevention Funds. Article 102.0171 of the Texas Code of Criminal Procedure (Juvenile Delinquency Prevention Funds) is not a new

statute, but it was amended in 2023 to allow municipal and justice courts to collect a \$50 fine for graffiti convictions:

Before 2023: Only other trial courts were authorized to collect the \$50 fine.

After 2023: Municipal and justice courts are now authorized to collect the fine and deposit it in a juvenile delinquency prevention fund.

It allows the JP Courts to utilize the County Juvenile Delinquency Prevention Fund for Youth Diversion under Subchapter E, Chapter 45.

The Clerk will create the Diversion Agreement that will include Diversion Program Components consisting of the Youth Diversion Coordinators maintaining contact with the youth, the service providers and parents of the youth, to verify that the requirements of the agreement are being met. They will be taking active roles in communicating with the parents, the youth and the service providers.

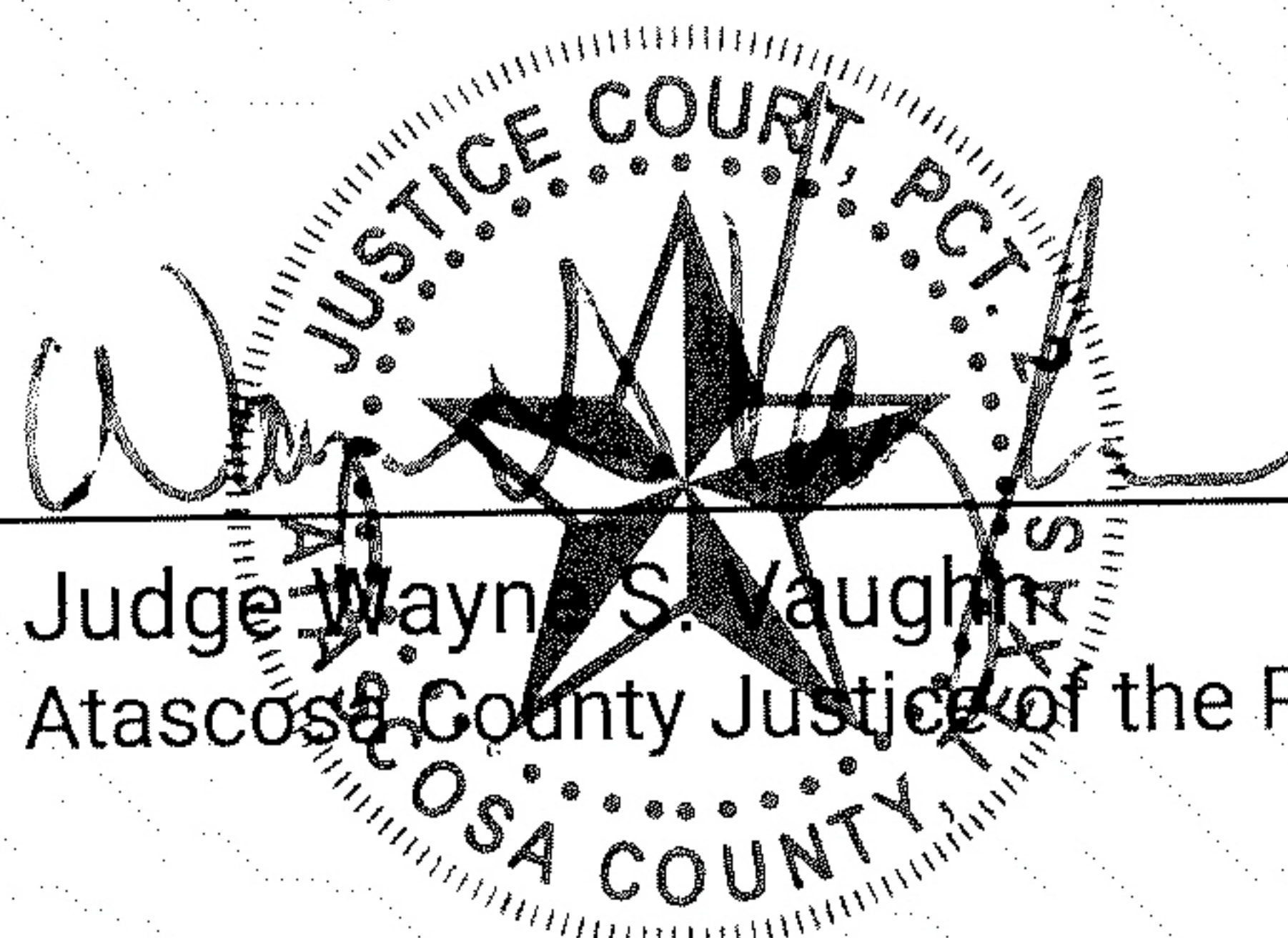
The Parents, youth and the Court will be provided with a written signed copy of the Youth Diversion agreement and plan of action detailing what is expected and the possible consequences for non-compliance.

Both parties are required to attend face to face meetings with the Youth Coordinator as scheduled by the Court.

The successful completion of the Diversion Agreement will bar the charges leveled against the juvenile to be revived and prosecuted. The Court will automatically expunge the juveniles record on their 18th Birthday.

The coordinators will maintain records of all Diversion Plans for three years and keep a permanent file on all successful and unsuccessful plans.

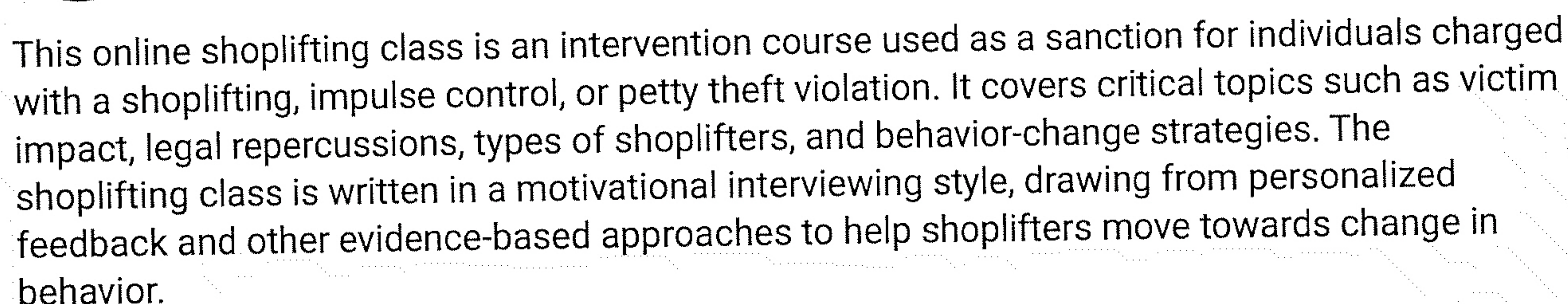
Signed the 12th day of December 2024.



<https://3rdmil.com/courses-overview/#mental-health-2>

Code 133.102(e) 133.125, 134.103 (b), 134.156 Code of Criminal Procedure Article 45.056

Below are the courses provided by 3rd Millenium classrooms focusing on high risk youth.



Nicotine 101

3RD MILLENNIUM CLASSROOMS

Nicotine 101 is an online course that provides the necessary information and tools for students to make informed decisions and healthy choices involving tobacco use. Nicotine 101 aims to address the impact of all products containing nicotine including: smoking, vaping, dipping, and other nicotine-containing products. Nicotine 101 provides valuable and accurate information on short-term effects, as well as long-term use and adverse health effects, including the dangers of vaping. This course can be taken for nicotine prevention education with a student group or as individuals for tobacco intervention.



Under the Influence JV

3RD MILLENNIUM CLASSROOMS

Under the Influence JV is an intervention program used as a sanction for juvenile offenders with alcohol violations. It is a state law-specific course that addresses alcohol use. The course is relevant and individualized for each participating student, with critical feedback and interaction.

After completing the intervention, students will better understand the reasons why they drink alcohol and evaluate the outcomes. The outcomes will include identifying goals to make a positive change in personal alcohol use.



THC 101

3RD MILLENNIUM CLASSROOMS

This course is for use with cannabis, possession of drug paraphernalia, or drugged driving violations. Public education about the dangers associated with cannabis use, presented in a reasonable and balanced manner, is increasingly important to counteract public beliefs that cannabis use is harmless. Motivational enhancement therapy, or motivational interviewing, has been successful in helping inspire internally motivated change for individuals who use cannabis.



Other Drugs

3RD MILLENNIUM CLASSROOMS

This substance abuse prevention course is for use with for prescription drug or other illicit drug violations. In an effort to foster awareness of the consequences of prescription drug abuse, Other Drugs is an online intervention program for individuals charged with an alcohol or drug violation. Other Drugs focuses on prescription drug misuse for opiates, depressants, sedatives, hallucinogens, and fentanyl.



Conflict Wise

3RD MILLENNIUM CLASSROOMS

Conflict Wise is an intervention program to help young people recognize the impact of their behaviors. The course provides important skill training designed to teach conflict resolution strategies and ways to diffuse anger. Personalized feedback shows the effects and consequences of actions. Each student receives an action plan to better manage their behavior. This class is for use in domestic violence, anger management, partner violence, or stalking violations.

Respect & Resolve 3RD MILLENNIUM CLASSROOMS

This online course focuses on all aspects of forming safe and healthy relationships. Topics include emotional health, building self-esteem, communication and conflict resolution skills, awareness of types of abuse in relationships, and strategies for recognizing coercive tactics in relationships.

It can be incorporated into a sex education curriculum for high school students, covering topics such as abstinence, consent, and avoiding coercion. It can also be referred to individuals with a conduct violations related to sexting or coercive behaviors.

Bridging the Gap 3RD MILLENNIUM CLASSROOMS

Promoting safe communities through education on essential principles for creating a culture of respect and belonging.

Wellbeing 101 3RD MILLENNIUM CLASSROOMS

Course fostering mental health and overall wellness.

Parent Wise 3RD MILLENNIUM CLASSROOMS

Course to help parents of teens navigate difficult issues.

Red Flags 3RD MILLENNIUM CLASSROOMS

This online course is designed to train school personnel to identify the signs of human trafficking and how to report victims as well as covering common misconceptions people have about modern-day slavery.

Note: The list of online youth diversion courses is not an exclusive list. JP 2 may add or remove when considered appropriate for the offense the youth is charged with.

DIVERSION AGREEMENT (Art. 45.308, C.C.P.) (Page 1 of 2)

Diversion Agreement
Atascosa County Justice Court, Precinct Two

This document constitutes a Diversion Agreement between the Atascosa County Justice Court, Precinct Two and _____ (Child) and _____ (Parent). This Diversion Agreement is entered into as an (Intermediate Diversion under Article 45.309 of the Code of Criminal Procedure) (Judicial Diversion under Article 45.310 of the Code of Criminal Procedure).

The objectives of this agreement are entered into with consideration of the circumstances of the child, the best interests of the child, and the long-term safety of the community.

This agreement shall be effective on the _____ day of _____, 20____ and shall be in effect for a period of _____ days (*not to exceed 180 days*). During the period of this agreement, Child and Parent shall inform the Justice Court of the best address to receive notices, and of changes to that address. Child and Parent agree to contact Belinda Estrada, Shelby Espinosa, or Andea Rodriguez, Youth Diversion Coordinators of the Justice Court Precinct Two office, at the end of the diversion period to discuss the status of completion of this agreement.

During the period of this agreement, Child shall complete: (*Specify Child's responsibilities and check applicable Diversion Strategies*) _____

- ☐ Teen Court
- ☐ School-related program: _____
- ☐ Educational program: _____
- ☐ Rehabilitation program: _____
- ☐ Self-improvement program: _____
- ☐ Referred to a Service Provider: _____
- ☐ Tutoring
- ☐ Community-based Services: _____
- ☐ Mental health screening
- ☐ Clinical assessment
- ☐ Counseling
- ☐ Mentoring
- ☐ Mediation
- ☐ Alcohol Testing
- ☐ Drug Testing
- ☐ Course of treatment prescribed by a physician
- ☐ Restitution (*Diversion by Judge Only; Requires separate Order*)
- ☐ Community Service (*Diversion by Judge Only; Requires separate Order*)
- ☐ Other: _____ (*Diversion by Judge Only; Requires separate Order*)

During the period of this agreement, Parent shall: (*Specify Parent's responsibilities*) _____

During the period of this agreement, Parent (shall) (shall not) pay to the clerk of the Justice Court a \$50 administrative fee to defray the costs of this diversion.

DIVERSION AGREEMENT (Arts. 45.308, C.C.P.) (Page 2 of 2)

During the period of this agreement, the Justice Court shall refrain from processing criminal cases based upon allegations of conduct which occurred on or about the _____ day of _____, 20____ (Case). The following charge or offense is being diverted: _____.

Upon successful completion of this Diversion Agreement, the Justice Court shall not accept charges related to the Case. Child acknowledges that, upon successful completion of this diversion agreement, Child will be ineligible for diversion for a period of 365 days.

If Child and Parent do not successfully complete the terms of this diversion agreement, the child shall be referred to the court for a hearing, for the purpose of a conference between the judge of the Justice Court, Child, and Parent. Child and Parent may, after notifying the Justice Court, bring any other person who may be of assistance to Child or the Justice Court in determining what is in the best interests of Child and the long-term safety of the community.

Diversion is not an admission of guilt and a guilty plea is not required to participate in diversion.

Child hereby knowingly and voluntarily consents to diversion from criminal prosecution, as provided in this agreement, acknowledges and accepts the terms of this agreement, and verifies that Child received notice of the child’s rights, including the right to refuse diversion.

Child’s Signature Date

Parent hereby knowingly and voluntarily consents to diversion from criminal prosecution, as provided in this agreement, acknowledges and accepts the terms of this agreement, and verifies that Parent received notice of the child’s rights, including the right to refuse diversion.

Parent’s Signature Date