

DIVERSION PROGRAM GUIDELINES

Jackson County Attorney's Office

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Traffic

Diversion Application

The Jackson County Attorney has established the following guidelines for the Diversion Program.

- Diversion is not a right, it is a privilege. No presumption in favor of diversion exists in ANY case.
- You are not required to have an attorney for the purpose of a traffic diversion.
- The Diversion Program is for six (6) months, which begins after you have been approved and our office has received the signed Diversion paperwork along with the appropriate diversion fees. During the six (6) months, you cannot be convicted of any moving violations.
- If you are approved for the Diversion Program, you are not required to pay the fines to the District court as indicated on the back of your written citation (traffic ticket).

Eligibility Requirements

The County Attorney's Office will consider a number of factors in determining whether or not a diversion is appropriate. It is presumed by these guidelines that a diversion is NOT appropriate under the following circumstances:

1. The Applicant has a prior criminal and/or traffic record, which includes convictions, prior diversions, or pending criminal matters not covered by the application.
2. The Applicant has had any moving violations, other than those charged, in the 12 months preceding the current ticket.
3. The current Ticket was given as a result of an accident involving another person, or if there is an indication that alcohol contributed in any way.
4. The current ticket is for a violation in a construction or school zone, or involves a school bus or emergency vehicle.
5. The current charge is Driving While Suspended and the underlying suspension is for an alcohol related offense. i.e. DUI, PBT Refusal, PUI, etc...
6. The Applicant has a CDL and was driving a commercial vehicle.



Procedures for Diversion Application Process

1. The Diversion Application must be completed and returned to the County Attorney's Office within ten (10) days after you have received the application, unless an extension is granted by the Office.
2. If you have a driver's license issued from a State other than Kansas, please provide a copy of your driving record along with your Diversion Application.
3. A non-refundable Application Fee of \$20.00 must accompany the Diversion Application or it will NOT be accepted. Payment shall be made by cash, cashier's check, money order, or attorney trust check; made payable to Jackson County Attorney's Custodial Fund. Upon acceptance into the Diversion Program, the Application Fee will be applied to the final Diversion costs. If your application for Diversion is denied, the application fee will not be refunded.
4. YOU MUST COMPLETE THE ENTIRE APPLICATION. If there is any section of the application that you do not understand, or if you have questions about any part of the application, you should contact an attorney. The County Attorney's Office cannot provide you with legal advice or assistance in completing the application process.
5. If the ticket is for Driving While Suspended, you MUST submit a letter of reinstatement of your license with the Diversion application or the application will be denied.
6. If the ticket is for No proof of Insurance, you MUST submit proof of current liability insurance or non-owners insurance for an advance of six (6) months with the Diversion Application, or the application will be denied.
7. If your application is approved, you, or your attorney, will be mailed the Diversion Agreement, and Stay of Proceedings, which will include the court costs, diversion fees, and any applicable attorney fees. You (and your attorney) must sign and return the paperwork along with the full payment to the County Attorney's Office by the deadline indicated on the letter sent with your Diversion paperwork.
8. If your application is denied, your notice will be in writing, by mail.

AGREEMENT

If approved for Diversion, a written Agreement for Pretrial Diversion shall be offered to the Defendant **with a deadline** for acceptance. If the Defendant chooses to accept, the Defendant must execute and deliver the Agreement to the CA's Office, along with the Diversion fee, by the deadline. The Diversion fee must be in the form of a cashier's check, money order, or attorney trust account check payable to "Jackson County Attorney." **Diversion fees** shall be:

\$200 for Traffic

If the Defendant fails to submit the written Agreement and Diversion fee by the deadline, the offer of Diversion may be withdrawn.

The Terms of the Criminal Diversion shall include:

- 1) A waiver of certain rights: speedy trial; speedy arraignment; preliminary hearing; jury trial; revocation hearing in the event of failing to comply with Agreement
- 2) Agreement to a stipulation to the facts of the case
- 3) Specific term of diversion agreement
- 4) Agreement to remain law abiding
- 5) Agreement to report to the County Attorney's Office as required
- 6) Payment of court costs, fines, fees and other costs within specified period of time, including a \$10 fee to the YWCA
- 7) Abide by special conditions such as (non-exclusive list):
 - a. Residence in a specified facility
 - b. Maintain gainful employment
 - c. Participate in counseling or special programs
 - d. Agreement to maintain a valid DL, insurance, registration, interlock (if required)
 - e. Participation in alcohol/drug treatment, and payment of costs for such
 - f. Any other conditions specifically set forth in the Diversion Agreement

(FOR OFFICE USE ONLY)

Application Fee of \$20.00 _____ Date Received _____

Case No. _____ Diversion Status Hearing Date _____

TRAFFIC (non-DUI) DIVERSION APPLICATION

You must complete EVERY blank and provide complete and accurate information

Name: _____

Court Case: _____

Address: _____

Date of Birth: _____

City/State/Zip: _____

Sex: M _____ F _____

Phone Number: _____

Email: _____

Social Security No. _____; Driver's License No. _____ St. _____

Attorney (if applicable): Name: _____ Appointed _____ Retained _____

Phone: _____ Address: _____

Have you had other moving violations? (speeding, no insurance, illegal registration, etc...)

Yes _____ No _____; complete the following :

City/County: _____ Violation: _____ Date: _____

✓ Continue list on the back of this page if necessary.

** if you have an out of State license, you may be required to provide a certified copy of your driving record at your own cost.

**THE FOLLOWING MUST BE COMPLETED IN THE APPLICANT'S OWN
HANDWRITING, IF NOT THE APPLICATION WILL BE RETURNED.**

1. Explain why you feel you can successfully complete the Diversion Program.

2. State in detail the facts that caused the ticket to be issued. (Use the back of this page if necessary).

3. State any facts concerning the ticket that you believe might excuse your actions.

Oath of the Applicant

I solemnly swear that I have read the foregoing Diversion Application and all of the information is true and correct to the best of my knowledge. I understand that giving false information will be a basis for denial of my Diversion Application or Revocation of my Diversion Agreement.

I hereby authorize the Jackson County Attorney's Office to release any information in the Jackson County Attorney's file pertaining to the offense for which I am charged to any agency which is performing the psychological, drug, alcohol, and/or other evaluation, any law enforcement agency, or any other such person or agencies for use in determining whether I am a suitable candidate for the diversion program. I further authorize any person, agency, or organization to release and provide, upon request, any information to the Jackson County Attorney's Office in consideration of my application for the Diversion Program.

I further authorize any person, agency or organization that is conducting an evaluation or treatment as a part of the Diversion Program to release information to any other person, agency or organization a needed for the evaluation or treatment process.

Date

Signature of Applicant

The \$20.00 non-refundable application fee is attached or otherwise submitted with this Application for Diversion as follows:

Cash

Cashier's Check

Money Order

Attorney Trust Check

Reasons for Denial or Add.Fee: **Poor driving record** **Excessive Speed**
 App. Not complete **Accident Occurred**