

STATE OF KANSAS
Sixth Judicial District
OFFICE OF THE LINN COUNTY ATTORNEY
JAMES BRUN, COUNTY ATTORNEY

TRAFFIC DIVERSION PROGRAM GUIDELINES

The County Attorney for the Sixth Judicial District of the State of Kansas has established the following guidelines for a pretrial traffic diversion program.

The Traffic Diversion program is intended to give a “second chance” to offenders who commit a relatively minor traffic/criminal offense. Traffic Diversion is a privilege and not a right. There is no guarantee Traffic Diversion will be granted in any given case. The needs of the offender are less important than those of public safety and the rights of the victim.

In determining whether or not to grant Traffic Diversion, the Diversion Coordinator or designee, appointed by the County Attorney, will consider whether the Defendant demonstrates a genuine sense of remorse and is prepared to acknowledge the act(s) charged and accountability for the consequences of his/her actions.

It is not required that a Defendant have an attorney for the purpose of Traffic Diversion. However, a Defendant has the right to employ an attorney and have him/her present throughout the Traffic Diversion application process. Defendants are required to reimburse the “COURT APPOINTED ATTORNEY FUND” when represented by court appointed counsel.

The County Attorney makes all decisions regarding Traffic Diversion policy. He appoints a Diversion Coordinator or designee to enforce such policies and determine Traffic Diversion eligibility including conditions for Traffic Diversion contracts. The County Attorney has the final authority to approve or deny any Traffic Diversion application.

The Traffic Diversion program is a minimum of 6 months and consists of two tracks:
GENERAL TRAFFIC DIVERSION and **SPECIALIZED TRAFFIC DIVERSION**

ELIGIBILITY CRITERIA FOR GENERAL TRAFFIC DIVERSION

1. The General Traffic Diversion does not require an application nor an application fee
2. To inquire if your offense is eligible for General Traffic Diversion you may contact the County Attorney’s Office at 913.795.2260 or in person at the County Attorney’s Office during normal business hours.
3. To apply for General Traffic Diversion, you may come to the County Attorney’s Office Monday-Friday between 8am-3:30pm prior to your court date
4. You may also inquire about your eligibility for General Traffic Diversion in court on your court date
5. All diversion fees and court costs are due at the time of signing the diversion agreement
6. All diversion agreements must be signed within 60 days from the first appearance in court

ELIGIBILITY CRITERIA FOR SPECIALIZED TRAFFIC DIVERSION

1. The specialized traffic diversion application fee of \$30.00 is required if submitting an application for Traffic Diversion on the offenses listed below (exact amount of cash or money order only) and is non-refundable.
2. Completed applications must be submitted within 60 days from the first appearance in court.
3. Defendant’s charged with Driving While Suspended driver’s license must be eligible to be reinstated during their term of diversion.
4. Persons shall be ineligible for diversion if they have any prior diversions and/or convictions for the same offense within the past 12 months. (12 months from the date of conviction/diversion NOT arrest date).
5. Persons shall be ineligible for diversion if any pre-trial motions are filed with the court prior to the final decision by the County Attorney regarding the defendant’s application for diversion.
6. All court appearances must be attended during the application process.
7. If you are charged with an offense involving an ACCIDENT we require **at the time of application**, a letter be provided from either the victim’s insurance company or your insurance company stating the damages have been satisfied or that your insurance company is accepting all liability for damages. This includes proof that you are not responsible for damages or that you have paid for the damages.
8. **Diversion agreements must be signed and paid by the defendant within 60 days of the date on the acceptance letter or the offer will be withdrawn.**

Specialized Traffic Diversion ELIGIBLE Offenses Include:

Driving While Suspended, Reckless Driving, Leaving the Scene of an Accident, Fleeing and Eluding, Transport Open Container, and Minor in Possession/Consumption of Alcohol.

If you are also charged with a registration or insurance offense, you **MUST** bring in proof of current valid registration or current valid proof of insurance at the time of submitting your application and a \$30.00 fee. Insurance must be a six-month prepaid policy. Your application will not be accepted without the required documentation.

If you have a commercial driver's license (CDL) you are not eligible for traffic diversion, regardless of whether you were driving a commercial vehicle at the time of the ticket.

TRAFFIC DIVERSION CRITERIA

In determining whether or not to grant diversion, the County Attorney will consider:

- The nature of the crime charged and the circumstances surrounding it.
- Whether the available diversion program is appropriate to the needs of the Defendant.
- Recommendations, if any, of the involved law enforcement agency.
- Whether the Defendant demonstrates a genuine sense of remorse and is prepared to acknowledge the act(s) charged and accountability for the consequences of his/her actions.

DIVERSION REQUIREMENTS

If the County Attorney agrees to Diversion, the Defendant will be required to waive any and all rights arising under the laws and/or Constitution of Kansas or the United States to a speedy trial and all proceedings incidental thereto. The diversion agreement may include, but is not limited to, the provisions listed below:

- Fees: **CASH (IN THE CORRECT AMOUNT) OR MONEY ORDERS ONLY**
 - Application Fee for Specialized Traffic Diversion Only: This non-refundable fee must be submitted with the application
 - \$30.00 cash/money order no personal checks
 - Diversion Fees are determined by the County Attorney or designee with minimum amounts as follows:
 - Driving While Suspended (1st) \$100.00
 - Driving While Suspended (2nd) \$250.00
 - Driving While Suspended (3rd or higher) \$500.00
 - Fleeing and Eluding: \$350.00
 - Transport Open Container: \$100.00
 - Leaving Accident Scene: \$200.00
 - Minor in Possession of Alcohol: \$100.00
 - Reckless Driving: \$200.00
 - Court Costs:
 - \$108.00
 - Court-appointed attorney fees TBD
- Restitution for the victim or the community
- Satisfactory participation in community service, if applicable
- Strict compliance with all federal, state and local laws
- Successful completion of an approved alcohol/drug/anger/mental health program/other programming

The terms of the diversion agreement will be reduced to writing and, upon approval of the parties involved, filed with the District Court. Upon satisfactory completion of the Diversion program, the County Attorney will move to have the charges against the defendant dismissed with prejudice.

Participation in the Diversion program will appear on the defendant's record. Failure to strictly comply with any provisions of the program will result in the reinstatement of prosecution.

Regardless of any of the above listed guidelines, the County Attorney has the authority to approve or disapprove any Diversion application.