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Franklin County Attorney

OFFICE OF THE



FRANKLIN COUNTY
ATTORNEY

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FRANKLIN COUNTY TRAFFIC DIVERSION POLICY **(UPDATED JANUARY 1, 2019)**

The Franklin County Attorney has established the following guidelines for the diversion application process in all traffic cases, with the exception of DUI cases. These guidelines are effective for any cases pending or offenses committed on or after January 1, 2019. It is not required that an applicant have an attorney for the purpose of a traffic diversion.

Diversion is a privilege and not a right. No presumption in favor of diversion exists in any case.

General Eligibility

The County Attorney will consider a number of factors in determining whether or not diversion is appropriate. Generally, a person is eligible to receive a traffic diversion if they have no previous traffic citations, convictions, or diversions for a moving violation within the last year, no more than 3 moving violations in the last 3 years, and no previous DUI citations, convictions, diversions or serious offense citations, convictions, or diversions within the last year.

In addition to the above circumstances, a person will **NOT** be diversion eligible in the following circumstances:

- 1) Traffic offenses that result in personal injury of any kind to anyone.
- 2) Traffic offenses that result in a multi-vehicle accident.
- 3) Speeding offenses that exceed the legal limit by over 30 mph, or speeds in excess of 100 mph
- 4) Speeding offenses that occur in a school zone.
- 5) Speeding offenses that occur in a posted construction zone, even if no workers were present.
- 6) Driving while suspended (unless license is reinstated) or habitual violator.
- 7) Fleeing or eluding a police officer.
- 8) Disobeying a railroad crossing signal. (see K.S.A. 8-1551)
- 9) Disobeying a railroad crossing stop sign. (see K.S.A. 8-1552)
- 10) Failing to stop at a railroad crossing. (see K.S.A. 8-1553)
- 11) Passing a school bus. (see K.S.A. 8-1556)
- 12) Driving with no liability insurance (unless you now possess six months of coverage).
- 13) Failure to yield to an emergency vehicle. (see K.S.A. 8-1530)
- 14) Any traffic offense other than a parking violation if the person possesses a commercial driver's license (CDL) regardless of what type of vehicle the person was driving at the time of

the offense. (See K.S.A. 8-2150)

15) Driving while suspended and driving with no liability insurance with one or more prior convictions.

Procedures

- 1) **All court appearances must be attended during the application process unless there is prior approval from the Court or the County Attorney.** Only the Court, not the County Attorney, can grant a continuance of a court hearing.
- 2) The Applicant **MUST** sign a statement under oath as to the facts and circumstances surrounding the ticket and that he/she has not received any prior reductions, diversions, or convictions in the twelve (12) months preceding the current ticket.
- 3) If the ticket is for Driving While Suspended the applicant **MUST** submit a letter of reinstatement with the diversion application or the application will be denied.
- 4) If the ticket is for No Proof of Insurance the applicant **MUST** submit proof of current liability insurance or non-owners insurance for six months with the diversion application or the application will be denied.
- 5) The Applicant (if Pro Se - representing oneself) or the Applicant's attorney will be notified whether or not the diversion application has been approved or denied.
- 6) Full payment must be received upon the filing of the diversion agreement.
- 7) Traffic diversions are six (6) months in length with an additional thirty (30) days following the expiration of the diversion to allow the County Attorney's Office to discover any violations of the diversion which occurred during the term of diversion. If you have not had any violations of the law, including traffic tickets, within the six (6) month diversion period, your case will be dismissed.
- 8) Once granted diversion, you are required to keep the County Attorney's Office informed of all address changes and any criminal and/or traffic violations committed by you. Failure to inform the County Attorney's Office of such will result in the County Attorney's Office filing a Motion to Resume Prosecution in the case, which could ultimately lead to a conviction.
- 9) All questions with regard to the diversion should be directed to the County Attorney's Office.

FRANKLIN COUNTY TRAFFIC DIVERSION APPLICATION

(Please fill out completely or your application will not be considered.)

Name: _____

Address: _____

Telephone Number(s): _____

D.O.B.: _____ Sex: _____

Social Security #: _____ D.L. #: _____ State D.L. from: _____

Do you have a commercial driver's license? Y / N If yes, from what state? _____

Employer: _____ How long? _____

Date Ticket Issued: _____ Next Court Appearance: _____

Current Charge(s): _____

List all states other than Kansas, where you have lived: _____

Have you had other moving violations (speeding, etc.) reduced, amended, or diverted? Y / N

If yes, what were the charges, in what city, county and state did the event occur, and when did it occur?

List all offenses for which you have been arrested or charged at any time and in any jurisdiction. Include expunged offenses, juvenile offenses and all traffic offenses. This section applies even if the charges were dismissed or someone told you the charges would not be on your record.

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

Explain why you feel you could successfully complete the Traffic Diversion Program. **This section must be completed in the applicant's own handwriting or the application will be returned.**

State in detail the facts which caused the ticket to be issued. **This section must be completed in the applicant's own handwriting or the application will be returned.**

ATTORNEY INFORMATION:

Please mark one of the following:

I am represented by counsel. My attorney's name and information is as follows:

Name of Attorney: _____ Phone: _____
Street Address: _____
City/State: _____ Zip Code: _____

Signature of Attorney (if represented by counsel)

I am not represented by counsel at this time. I understand I have the right to counsel who would be able to assist me in the diversion application process, but I am knowingly and freely waiving my right to counsel as evidenced by my signature below and wish to proceed without the assistance of an attorney.

I solemnly swear that I have read the foregoing Traffic 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 diversion or revocation of diversion.

I hereby authorize the Franklin County Attorney's Office to release any information in the Franklin 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 Traffic Diversion Program. I further authorize any person, agency or organization to release and provide, upon request, any information to the Franklin County Attorney's Office in consideration of my application for the Traffic Diversion Program.

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

Signature of Applicant

Subscribed and sworn to before me on _____, 20____.

Notary Public

**IF YOUR SIGNATURE IS NOT NOTARIZED THE APPLICATION
WILL BE RETURNED.**

Return this application, either in person or by US mail to:

Franklin County Attorney's Office
ATTN: Traffic Diversions
220 S. Beech Street – Suite B
Ottawa, KS 66067

**COMPLETED APPLICATIONS SUBMITTED VIA FACSIMILE OR EMAIL WILL
NOT BE CONSIDERED.**