



PLEASE READ

FAILURE TO FOLLOW INSTRUCTIONS COULD RESULT IN DELAY AND/OR DENIAL OF DIVERSION

TRAFFIC DIVERSION POLICY

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 November 1, 2011. It is not required that an applicant have an attorney for the purpose of a traffic diversion.

PLEASE NOTE: 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 ineligible to receive a traffic diversion if any of the following apply:

1. They have a previous traffic citation, conviction, or diversion for a moving violation within the last year, or
2. They have more than three (3) moving violations in the last three (3) years, or
3. They have previous DUI citations, convictions, and/or diversions.

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

1. Any traffic offense other than 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. 8-2,150)
2. Traffic offenses that result in personal injury of any kind to anyone.
3. Traffic offenses that result in a multi-vehicle accident.
4. Reckless Driving (see K.S.A. 8-1566).
5. Speeding Offenses that exceed the legal limit by over 20 mph. No diversion will be granted in any case for speeds more than 90 mph.
6. Speeding offenses that occur in a school zone.
7. Speeding offenses that occur in posted construction zones.
8. Driving while Suspended, or Habitual Violator.
9. Fleeing or eluding a police officer.
10. Disobeying a railroad crossing signal. (see K.S.A. 8-1551)
11. Disobeying a railroad crossing stop sign. (see K.S.A. 8-1552)
12. Failing to stop at a railroad crossing. (see K.S.A. 8-1553)
13. Passing a school bus. (see K.S.A. 8-1556A)
14. Driving with no liability insurance.
15. Failure to yield to an emergency vehicle. (see K.S.A. 8-1530)

PROCEDURES/CHECKLIST

- All court appearances MUST be attended during the application process unless prior approval from the Court or the County Attorney.
 - A \$25.00 NON-REFUNDABLE Application Fee must accompany the diversion application or the application will NOT be accepted. Payment of the application fee shall be in the form of a MONEY ORDER OR CASHIER'S CHECK ONLY Made payable to the FRANKLIN COUNTY ATTORNEY'S OFFICE.**
 - A legible copy of the ticket MUST accompany the application or the application will NOT be accepted.
 - The Applicant MUST sign a statement under oath as to the facts and circumstances surrounding the ticket and the information in the application.
 - 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.
 - 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 the 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.
 - If your diversion is granted, you are required to keep the County Attorney's Office informed of all address changes, criminal and/or traffic violations. 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.
 - If your diversion is granted, you will be notified and you MUST pay the following:
 - An additional **\$75.00** for diversion costs
 - Court Costs, plus
 - The Fines assessed in the case.
- Full payment must be received upon the filing of the diversion agreement or YOUR APPLICATION WILL NOT BE FILED AND THE STATE WILL SEEK A CONVICTION.**
- You will need to contact the District Court Clerk's Office and request a continuance of your appearance date which appears on the bottom of your ticket. Inform the Clerk's Office that you are pursuing a diversion in the case. The Telephone number is (785) 242.6000.
 - You MUST provide the County Attorney's office with a self-addressed stamped envelope with your application.

QUESTIONS

Please contact the Franklin County Attorney's office with any questions during normal business hours.

Business Hours: Monday – Friday

8:00 a.m. – 12:00 p.m.

1:00 p.m. – 4:00 p.m.

Telephone Number:

(785) 229.8970

IMPORTANT NOTE:

Because Diversion is a privilege and not a right, it will be YOUR RESPONSIBILITY to ensure that you complete all of the procedural requirements listed above. If you have submitted a Diversion Application and have not heard back from the Franklin County Attorney's office on the STATUS of your application within thirty (30) days of turning it in, it is YOUR RESPONSIBILITY to contact the Franklin County Attorney's office to find out why.