

FRANKLIN COUNTY ATTORNEY'S OFFICE

Diversion Program Guidelines

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**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 January 10, 2005. 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.

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. Reckless Driving (see K.S.A. 8-1566).
4. Speeding offenses that exceed the legal limit by over 20 mph in areas.
5. Speeding offenses that occur in a school zone.
6. Speeding offenses that occur in a posted construction zone.
7. Driving while suspended (unless reinstated at the time of applying) or habitual violator.
8. Fleeing or eluding a police officer.
9. Disobeying a railroad crossing signal. (see K.S.A. 8-1551)
10. Disobeying a railroad crossing stop sign. (see K.S.A. 8-1552)
11. Failing to stop at a railroad crossing. (see K.S.A. 8-1553)
12. Passing a school bus. (see K.S.A. 8-1556A)

13. Driving with no liability insurance and the policy expiration exceeds 30 days.
14. Failure to yield to an emergency vehicle. (see K.S.A. 8-1530)
15. 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)

Procedures

1. All court appearances must be attended during the application process unless prior approval from the Court or the County Attorney
2. 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.
3. A legible copy of the ticket **MUST** accompany the application or the application will not be accepted.
4. 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.
5. 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.
6. 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.
7. 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.
8. Upon acceptance into the Diversion Program, the \$25.00 non-refundable Application Fee will be applied toward the \$100.00 Diversion Costs which must be paid upon acceptance into the Diversion Program, along with all court costs and fines assessed in the case. Full payment must be received upon the filing of the diversion agreement.
9. 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.
10. Once granted diversion, 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.
11. All questions with regard to the diversion should be directed to the County Attorney's Office.
12. 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.