

# **STANDARD DIVERSION PROGRAM**

The following guidelines have been adopted by the Lawrence City Prosecutor's office for the diversion program in Lawrence Municipal Court. These guidelines supersede prior policies or guidelines, whether oral or in writing, and are effective for any offense committed on or after July 4, 2002.

Diversion is a **privilege** afforded an accused and not a right. No presumption in favor of diversion exists in any case, and the burden of persuasion rests with the applicant to establish that a diversion agreement will best serve the ends of justice and the interests of the community, public safety and the rights of the victims.

It is not required that a defendant have an attorney for the purpose of diversion; however, a defendant has the right to employ an attorney and have him/her present throughout the diversion application process.

## **Eligibility; Factors Considered**

In determining whether or not diversion is appropriate, the City Prosecutor will consider a number of factors. Some of these factors include:

1. The nature of the crime and the circumstances surrounding it.
2. Any special characteristics and circumstances of the defendant.
3. Whether the defendant is a first-time offender.
4. Whether the diversion program is appropriate to the needs of the defendant.
5. The impact of diversion on the community.
6. Recommendations of the involved law enforcement community.
7. Recommendations, if any, of the victim.
8. The amount of restitution, if applicable, owed by the defendant.
9. Any mitigating or aggravating circumstances surrounding the crime.

## **Exclusions**

Traffic offenses

1. Diversion is not offered for minor traffic infractions;
2. The defendant is charged with operating under the influence of alcohol or drugs and,
  - (a) the defendant has a previous conviction or diversion for operating under the influence of alcohol or drugs, or
  - (b) the defendant was, at the time of the alleged operating under the influence, involved in a motor vehicle accident resulting in injury or death of a person.
3. The defendant has prior serious traffic convictions, such as Driving While Suspended, Reckless Driving, No Insurance, Attempting to Elude, Leaving the Scene of an Accident, etc.

## **Procedures**

**ALL COURT APPEARANCES MUST BE ATTENDED DURING THE APPLICATION PROCESS.** You may turn in this application to the Municipal Court with the \$30 non-refundable application fee after your first appearance. **YOUR APPLICATION MUST BE RECEIVED WITHIN 30 DAYS AFTER YOUR 1<sup>ST</sup> APPEARANCE OR YOUR APPLICATION MAY BE DENIED.** The City Prosecutor will review requests for diversion and may require a diversion conference with the applicant. Please review the following carefully:

- A. The diversion application **must** be completed on the form provided by the Clerk of the Municipal Court. Photocopied reproductions will be accepted.
- B. All diversion fees and costs are due at time of signing agreement. The only exception will be upon the submission of a financial affidavit by the defendant and a finding by the City Prosecutor that the defendant is indigent.
- C. A diversion application will not be accepted for a charge of **operating under the influence of alcohol** without an accompanying **alcohol evaluation**.
- D. A diversion application will not be accepted for a charge of **possession/consumption of an alcoholic beverage while underage** without **proof of completion of an approved alcohol education program**.
- E. A diversion application will not be accepted for a charge of **possession of marijuana** without an accompanying **drug abuse evaluation**.
- F. The defendant or the defendant's attorney will be notified if the diversion application has been approved. If the application is denied, the defendant or the defendant's attorney will be notified in writing.
- G. Approval of a diversion will be withdrawn if the diversion agreement is not signed by the defendant and filed with the City Prosecutor before the assigned court date.

**The Diversion Agreement**

If the City Prosecutor approves a diversion agreement, the terms and conditions will be reduced to writing for approval and signature by both parties. The executed diversion agreement will be filed with the Municipal Court and criminal proceedings will be suspended as long as the defendant fulfills the terms and conditions of the diversion agreement. Upon successful completion of the agreement, the City Prosecutor will move to dismiss the charge(s) with prejudice with costs assessed to the defendant.

If at any time during the diversionary period the City Prosecutor finds that the defendant is no longer fulfilling the terms of the agreement, the City Prosecutor will file a Motion to Revoke the agreement and resume criminal proceedings.

**STANDARD DIVERSION AGREEMENT**

**Length: 12 months\***

**Examples of standard minimum fees:**  
**(subject to exceptions)**

OUI	\$802.00
No Insurance	\$452.00
Theft	\$352.00
Battery	\$352.00
MIP	\$452.00
Possession of Marijuana	\$352.00

Additional terms may be included in diversion agreements depending on the circumstances.

\_\_\_\_\_  
 City Prosecutor

\_\_\_\_\_  
 City Prosecutor

Date 3-11-2010

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**NO DIVERSION APPLICATION WILL BE ACCEPTED FOR:**

**OUI** - Without an accompanying alcohol evaluation;

**MIP** - Without verification of completion of alcohol information school

**Poss. of Marijuana** – Without an accompanying substance abuse evaluation;

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**Alcohol Education and Counseling Facilities:**  
***Douglas County***

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**Choices**  
1012 Mass., Ste. 201  
Lawrence, KS 66044  
(877) 390-0884  
(913) 390-0100

**Heartland Clinical  
Consultants**  
544 Columbia  
Lawrence KS 66046  
(785) 842-7296

**Solace Counseling Services**  
719 Mass., Ste. 125  
Lawrence, KS 66044  
(785) 766-6800  
Christy L. Edwards, LSCSW  
Kathleen Thomas, LMSW

**Cedar Branch**  
719 Mass, Ste. 118  
Lawrence, Ks. 66044  
(785)840-0374

**Bert Nash Community  
Health Center**  
200 Maine, Suite A  
Lawrence KS 66044  
(785) 843-9192

**Alpha Recovery**  
5040 Bob Billings Pkwy  
Ste. B  
Lawrence, KS. 66049  
(785)842-6300

**DCCCA Center Inc.**  
1739 E 23<sup>rd</sup> St  
Lawrence, KS. 66046  
(785) 830-8238

**Haskell Indian Nat.**  
2415 Massachusetts  
Lawrence, Ks. 66046  
(785)842-4833

**Scott Black**  
Assessment/Counseling  
2500 W. 31<sup>st</sup> Ste. G  
Lawrence, KS. 66046  
(888) 742-1235

**Connecting Pointe**  
16 E. 13<sup>th</sup>  
Lawrence, KS 66044  
aConnectingPointe@yahoo.com

**Prof. Treatment Services**  
3205 Clinton Pkwy Ct.  
Lawrence, KS 66047  
(785) 843-5483  
www.professionaltreatment  
services.com

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***Surrounding Communities***

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**Choices**  
405 S. Clairborne Rd, Ste. 4  
Olathe, KS. 66062  
(913) 390-0100  
(877) 390-0884

**Assessment Services**  
108 E. Poplar, Ste. A  
Olathe, KS. 66061  
(913)768-9777

**Cypress Recovery Inc.**  
230 S. Kansas  
Olathe, KS. 66061  
(913) 764-7555

**Columbia Health Systems, Inc.**  
10580 Barkley  
Overland Park, KS. 66212  
(913) 451-1111

**Connecting Pointe**  
300 S. Clairborne, Ste. E-1  
Olathe, Ks. 66219  
(913) 397-0300  
(913) 397-0301 fax  
[aconnectingpointe@yahoo.com](mailto:aconnectingpointe@yahoo.com)

**Kathleen Ruth**  
1223 N. Rock Rd., Ste.  
Wichita, Ks. 67206  
(316) 636-2888  
[kjr-68@msn.com](mailto:kjr-68@msn.com)

**Sunflower Alcohol/Drug  
Safety Action Project**  
112 SE 7<sup>th</sup>, Ste. E  
Topeka, KS. 66603  
(785) 232-1415

**Sims-Kemper Counseling**  
1701 SW Medford Ave.  
Topeka, Ks. 66604  
(785) 233-0666

**Heartland Clinical  
Consultants**  
5040 SW 28<sup>th</sup>, Ste. F  
Topeka, KS. 66614-2302  
(785)272-2266

CITY OF LAWRENCE—MUNICIPAL COURT  
1006 New Hampshire, P. O. Box 1695  
Lawrence, KS 66044

**FOR OFFICE USE ONLY:**

Docket #: \_\_\_\_\_  
Ticket #: \_\_\_\_\_  
Date Out: \_\_\_\_\_  
Date Rec'd: \_\_\_\_\_  
Def. Atty: \_\_\_\_\_  
Pd: \_\_\_\_\_  
CK#: \_\_\_\_\_  
Receipt#: \_\_\_\_\_

**DIVERSION APPLICATION**

**A non-refundable \$30.00 application fee must be paid with this application to initiate the diversion process.**

LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_ MIDDLE NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE NUMBER - HOME (\_\_\_\_) \_\_\_\_\_ - CELL - (\_\_\_\_) \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**\*\* HOW DO YOU PREFER WE SEND YOU THE DIVERSION AGREEMENT? (CHECK ONE) \_\_\_\_\_ EMAIL \_\_\_\_\_ U.S. MAIL**

LIST ALL PREVIOUS ADDRESSES FOR THE LAST 3 YEARS:

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

LIST ANY ALIAS/MAIDEN NAME \_\_\_\_\_ SOCIAL SECURITY NUMBER \_\_\_\_\_

DATE OF BIRTH \_\_\_\_/\_\_\_\_/\_\_\_\_ SINGLE \_\_\_\_ MARRIED \_\_\_\_ DIVORCED \_\_\_\_ SEPARATED \_\_\_\_

IF MARRIED, SPOUSE'S FULL NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

NAME ALL DEPENDENTS \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

\_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

DRIVER LICENSE NUMBER: \_\_\_\_\_ STATE OF ISSUANCE \_\_\_\_\_

IF STUDENT; LIST PERMANENT/PARENT'S ADDRESS: \_\_\_\_\_

CLOSEST RELATIVE NOT PRESENTLY LIVING WITH YOU: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE # \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

**WORK EXPERIENCE**

PRESENT EMPLOYER \_\_\_\_\_ HOW LONG? \_\_\_\_\_ TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ PHONE \_\_\_\_\_

WEEKLY SALARY \$ \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_

FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_

FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_

FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_

FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

HIGHEST LEVEL OF EDUCATION COMPLETED \_\_\_\_\_

WHAT COUNTY (ie: DOUGLAS, JOHNSON, JEFFERSON) ARE YOU CURRENTLY A RESIDENT OF: \_\_\_\_\_

WHAT STATE \_\_\_\_\_ HOW LONG? \_\_\_\_\_

IF YOU MOVED TO DOUGLAS COUNTY WITHIN THE PAST 5 YEARS, WHERE DID YOU LIVE PREVIOUSLY AND WHAT PROMPTED THE MOVE? \_\_\_\_\_

**MEDICAL HISTORY - (PLEASE LIST BRIEFLY)**

PHYSICAL CONDITION: \_\_\_\_\_

LIST ANY PREVIOUS PSYCHIATRIC OR PSYCHOLOGICAL TREATMENT RECEIVED: \_\_\_\_\_

**CRIMINAL RECORD**

**(ATTACH ADDITIONAL PAGES IF NECESSARY)**

List **ALL** prior or pending offenses, including criminal, traffic and juvenile.

Include ALL arrests and convictions, even if subsequently expunged.

Also, list any other diversion programs you have previously participated in.

Date	Offense	Location	Disposition	Parole/Probation Officer

PLEASE STATE IN DETAIL THE FACTS WHICH CAUSED THE **CURRENT** CHARGES AGAINST YOU TO BE FILED:

PLEASE STATE WHAT YOU BELIEVE TO BE ANY MITIGATING FACTORS CONCERNING THE CRIME(S) WITH WHICH YOU ARE CHARGED:

EXPLAIN WHY YOU FEEL YOU COULD SUCCESSFULLY COMPLETE THE DIVERSION PROGRAM:

I have read the foregoing application. All of the information is true and correct. I understand that if any of the foregoing information is not true and correct, this may be a basis for denial of the diversion or a revocation of my diversion. I request a continuance of the court date for my case to allow the city time to review my application and obtain the information necessary to determine whether or not a diversion can be granted. I understand that I have a right to a speedy trial and I knowingly and voluntarily waive the right to speedy trial.

Defendant's Signature

Date

# PAYMENT REQUIREMENTS

## **All Payments are Due Upon Signing of Diversion Agreement**

### ***Exceptions for Indigent Individuals Only***

The City Prosecutor's office shall have the discretion to establish a time period for the payment of diversion costs, only if the defendant's gross monthly income (excluding public assistance, social security disability and AFDC payments) does not exceed established guidelines.

**All diversion fees and costs are due at the time of signing. The only exception will be upon submission of the financial affidavit below by the defendant and a finding by the City Prosecutor that the defendant is indigent.**

***If you are anticipating a need for time to pay, you must fill out the following section:***

NUMBER IN FAMILY \_\_\_\_\_

MAXIMUM GROSS MONTHLY INCOME \$ \_\_\_\_\_

***YOU MUST ATTACH A COPY OF YOUR MOST RECENT PAY STUB WITH THIS FORM.***

***If income does not meet financial need guidelines, payment will be due at the time of signing the diversion agreement.***

I have read the foregoing statement regarding financial need guidelines. All of the information is true and correct. I understand that if any of the foregoing information is not true and correct, this may be a basis for denial for my diversion or a revocation of my diversion.

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Date