

Office of the
WYANDOTTE COUNTY
DISTRICT ATTORNEY



DISTRICT ATTORNEY
Mark A. Dupree, Sr.

29TH JUDICIAL DISTRICT OF KANSAS

Traffic Diversion Application

Last Name _____ First Name _____ Middle Initial _____

Address _____ City _____ State _____ Zip _____

E-mail _____ Contact me by: Mail *or* E-mail

Phone # _____ Date of Birth _____

Social Security # _____ Driver's License # _____ State _____

Date of Offense _____ Agency Issuing Citation KHP WYSO

Were you arrested for this offense? YES NO

Charges _____ Insurance Company _____

Policy # _____ Expiration Date _____

I am not represented by an attorney in this matter. Signature _____

I am represented by an attorney in this matter. Attorney's name _____

Phone # _____ Contact by: Mail *or* E-mail _____

Prior Traffic Offense Record: (List all Juvenile and Adult traffic incidents, DUI or DWI arrests, diversions, deferred prosecutions, convictions and expungements in Kansas or other states including those not resulting in formal charges or convictions. Include date of arrest, citation or incident, arresting or ticketing agency, charge and disposition.)

Prior Criminal Offense Record: (List all Juvenile and Adult incidents, arrests, citations, prosecutions, conviction, expungements, diversions or deferred prosecution agreements in Kansas or other states including those not resulting in formal charges or convictions. Include date of incident, agency involved, charge and disposition.)

Were you cooperative with law enforcement during the issuance of this ticket? YES NO

AUTHORIZATION

I hereby apply for status as a participant in the Diversion Program and request that the District Attorney temporarily delay trial against me in order to permit consideration of this application. I understand it is my responsibility to submit a diversion application in a prompt and timely fashion and within the guidelines set by the District Attorney to provide the necessary time for my diversion application to receive a full and complete review by the District Attorney's Office. I understand that the final decision to continue traffic proceedings or to defer prosecution in my case rests entirely with the District Attorney.

I authorize the Program Coordinator to conduct an investigation to determine my eligibility for this program.

A false answer or omission of any question in this application shall be grounds for recommendation against placement into this program or removal after placement in the program, in which case, the District Attorney will resume prosecution on the original charges.

I understand and agree that in the event it is learned I have falsified or omitted any part of the application for Diversion, including, but not limited to, my listing of prior traffic and criminal offenses, it shall be considered a violation of my Agreement of Pre-Trial Diversion and I may be taken off Diversion. I agree that a criminal justice report, including, but not limited to, a Department of Justice report, KBI report, police department or sheriff's department report, and/or Department of Revenue report, may be admitted as evidence in any court, without foundation, to prove prior traffic or criminal offenses. If necessary, I agree to have my fingerprints taken for this purpose.

I understand that failure to respond to any question will render the application incomplete and the District Attorney's Office will not consider the application.

I declare (verify, certify, or state) under penalty of perjury under the laws of the State of Kansas, that I have personally read or have had read to me the above application for Diversion and responses thereto and that all information contained in the foregoing application for the Pretrial Diversion Program is true and correct.

Executed on: _____
(DATE)

Applicant's Signature

I authorize the District Attorney's Office to conduct a background check of my past employment record and I authorize my present and previous employers to furnish the District Attorney's Office with any information they request. I further authorize the District Attorney's Office to contact my liability insurance carrier and authorize them to release information.

Executed on: _____
(DATE)

Applicant's Signature

I authorize the District Attorney's Office to release all records in their possession, including but not limited to, criminal history information and investigation reports to any other agency which may participate in evaluating me in the application process.

Executed on: _____
(DATE)

Applicant's Signature

WARNING: If you have not received formal notice from the District Attorney's Office that your traffic diversion application has been approved, you must appear at the date and time indicated on your citation or as indicated by the court. Failure to do so will result in a suspension of your driver's license and/or a bench warrant being issued for your arrest.

TRAFFIC POLICY

You have three options how to handle the ticket(s) you received.

DIVERSION
REQUEST A TRAFFIC TRIAL
PAY THE CITATION

The District Attorney recommends that you consult with an attorney if you desire to do so. The District Attorney's Office cannot give you legal advice on how to deal with the citation you received and will not offer guidance on which option is best for you.

OPTION ONE—DIVERSION

Diversion is a privilege 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, the interests of the community, public safety and the rights of any victim.

It is not required that you have an attorney for the purpose of traffic diversion. However, you are free to consult and employ one if you wish. If you apply for diversion without an attorney, and if the charge could require that you serve time in jail, then you must formally waive the assistance of counsel. In such a case if you are not inclined to waive counsel, you may apply to the court for the appointment of an attorney. However, you may be required to repay the court-appointed attorney's fund. All diversion application and payment timetables still apply to your case, even if you are represented by counsel.

During the diversion period you **cannot** violate any laws of the state of Kansas or your diversion may be revoked.

You must pay all the fines and costs associated with the Diversion contract either within the diversion period or as noted in the Diversion contract.

If you are eligible for diversion—you must sign a contract with the District Attorney's Office. This contract will set out the requirements for you to successfully complete the diversion. If you successfully complete diversion, your case will be dismissed. You will be required to agree or stipulate that you committed the violation as charged on the citation.

If you do not successfully complete diversion, your diversion will be revoked and prosecution will be resumed on the citation as if you had never entered diversion. The charges will appear on your driving/criminal record.

If you are not a United States citizen, or a foreign national registered with I.C.E., and you do not have proper documentation e.g. valid work permit, visa or green card –your fingerprints —must be on file in Kansas. If you were fingerprinted at the time of arrest no further action need be taken. However, if you were not arrested you will have to be fingerprinted at the time of application for diversion.

To determine if you are diversion eligible –please check below. Depending on what violations you committed depends on your eligibility and what you will be required to do to get the tickets kept off your record.

COSTS AND FEES

- Non-refundable diversion application fee: **\$50.00**
- Diversion Fee (includes court costs): **DOUBLE** the amount of the entire ticket
- Restitution (if applicable)

YOU ARE NOT ELIGIBLE FOR DIVERSION, IF:

1. You currently have a moving violation conviction on your driving record that occurred within 6 months of the citation you just received.
2. You were charged with speeding and you were exceeding the speed limit by 25 miles an hour or more.
3. Your citation was issued in a construction zone, school zone or involved a school bus
4. You currently hold a CDL license or charged with a commercial vehicle violation.
5. You have received a traffic diversion in the last 6 months.
6. At this time, your ticket was a result of a crash –that crash involved other persons and/or other person’s property (if your crash does not involve these-you could be eligible).
7. You have been charged with reckless driving, flee and eluding or failure to yield to an emergency vehicle.
8. At this time, you were cited for more than three moving violations.
9. You were ticketed for not having or tampering with an ignition interlock device.

ELIGIBLE OFFENSES INCLUDE:

CITATION RECEIVED	LENGTH OF DIVERSION	REQUIRMENTS WHILE ON DIVERSION
<p>No Proof of Insurance No prior convictions for no proof of insurance on your driving record within 12 months of receiving this citation</p>	90 days	Must submit current insurance on the vehicle at the time you submit your application for diversion AND you must submit proof of insurance each month during the 90 days
<p>Driving While Suspended (DWS) No prior convictions for DWS on your driving record within 12 months of receiving this citation</p>	90 days +1 week	Must provide a valid driver's license within 90 days to the District Attorney's Office
<p>Fishing Without a License</p>	90 days	Must provide a valid fishing license at the time you submit your application for diversion
<p>Minor in Possession/Consumption</p>	6 months	Must attend alcohol information school and a MADD panel
<p>No Driver's License</p>	60 days+1 week	Must provide a valid driver's license within 60 days to the District Attorney's Office –if you cannot provide proof during this time-your fingerprints must be on file (this can be done either if you were arrested and fingerprinted or at the time you apply for your diversion)
<p>Furnishing Alcohol to Minors</p>	90 days	Must attend alcohol information school and a MADD panel
<p>No Registration on Vehicle or Trailer</p>	60 days	Must submit valid registration for the vehicle you were driving at the time of the stop with your application for diversion
<p>Defective Vehicle Equipment</p>	30 days	Must submit receipts or photos of vehicle where the defect has been repaired

You may be eligible if you receive a citation (moving violation) for any ticket – for example you receive a citation for failing to use a turn signal.

STEP BY STEP PROCESS FOR DIVERSION

1. Determine if you are eligible based on your criminal/driving history and the citation you received. As noted above, District Attorney's staff will not give legal advice as to whether you should/could qualify—you must make that determination on your own and/or with the advice of counsel.
2. Fill out an application for diversion and present the application, any documents required and the \$50.00 dollar non-refundable application fee to the Wyandotte County District Attorney's Diversion Services Unit. The non-refundable application fee must be payable to the Clerk of the District Court. Acceptable forms of payment include cash, money order, or debit/credit card. Payments can be made in person at the Wyandotte County Courthouse-Traffic Department, or by calling (913) 573-4117. Do not send payment to the District Attorney's. If you are applying for diversion, **do not pay the fine listed on the citation.**
3. You or your attorney will be contacted by mail/email regarding your eligibility. If your application is approved, you will be asked to sign a diversion agreement. If you do not qualify-you will need to return to court AND look at OPTION TWO or THREE—on how you wish to proceed.
4. Once the diversion agreement is signed –you must fulfil all your obligations required by the agreement within the prescribed time. **You must pay all fines and costs at the time of signing the agreement to the Traffic Department. Payments shall be made payable to Clerk of the District Court.**
5. If all requirements are completed and you have remained law abiding, the case will be dismissed. The offenses will not appear on your driving/criminal record.
6. If, however, you fail to complete the terms of the agreement-a motion will be filed with the court to REVOKE your diversion and the case will proceed on stipulated facts – meaning there will be no trial. The citation(s) will go on your driving record and/or become part of your criminal history.

OPTION TWO—REQUEST A TRAFFIC TRIAL

If diversion is not an option or you feel a judge should determine if you committed the offense—you can request a trial. Please contact the Clerk of the District Court—Traffic Department, to request a trial date. This request must be timely and within the rules set forth by court rule. PLEASE NOTE: Having a trial does not cost any more than paying the ticket outright. You have the right to retain an attorney to assist you with this matter.

OPTION THREE— PAY THE CITATION

You may, at any time, pay the total amount shown on the citation. The payment must be timely and within the rules set forth by court rule or you may incur further costs.