

**MARION COUNTY ATTORNEY'S OFFICE**

**200 S. THIRD ST, SUITE 101**

**MARION, KANSAS 66861**

**PHONE (620) 382-2243**

**DUI Diversion Policy**

This document is an application for diversion from a charge of driving while under the influence of either alcohol or drugs, in violation of K.S.A 8-1567. Individuals wishing to apply for diversion must complete the form, answering all questions fully and completely. The application must then be submitted to the Marion County Attorney, 200 S. Third St., Suite 101, Marion, Kansas, for review and consideration with a \$45.00 Application Fee. The Applicant will be notified of the County Attorney's decision regarding diversion prior to further criminal proceedings. If diversion is denied, prosecution will continue. A DUI Diversion is typically a twelve (12) month program.

In determining whether diversion of an applicant is in the interests of justice and of benefit to the applicant and the community, the County Attorney will consider at least the following factors among all factors to be considered:

1. The nature of the crime charged and the circumstances surrounding it
2. Any special characteristics or circumstances of the applicant
3. Whether the applicant is a first-time offender and if the applicant has previously participated in diversion according to the certificate of the Kansas Bureau of Investigation or the Department of Vehicles
4. Whether there is a probability that the applicant will cooperate with and benefit from diversion
5. Whether the available diversion program is appropriate to the needs of the applicant
6. The impact of the diversion of the applicant on the community
7. Recommendations, if any, of the involved law enforcement agencies or the victim.
8. Provisions for restitution
9. Any mitigating or aggravating circumstances

The County Attorney will not enter into a diversion agreement in lieu of further criminal proceedings if:

- ❖ The applicant has previously participated in a diversion or been convicted of a violation of DUI or DWI, or similar statute, ordinance, or law of another state,
- ❖ At the time of the violation there was a vehicle accident or collision which resulted in personal injury or death,
- ❖ And/or the blood alcohol content is greater than .2

The County Attorney will consider the following circumstances with disfavor; and will enter into a diversion agreement in lieu of further criminal proceedings only if there are substantial mitigating circumstances shown:

- ❖ The applicant had a blood alcohol content of .13 or greater
- ❖ The applicant was transporting an open container of alcohol
- ❖ The applicant was speeding or driving reckless
- ❖ The applicant was difficult and/or uncooperative with law enforcement

**DUI Diversion Application**

**Personal Information**

Full Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Maiden name or other names used: \_\_\_\_\_ E-mail: \_\_\_\_\_

Social Security #: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Sex: \_\_\_\_\_

How long have you lived at this address: \_\_\_\_\_ Who do you live with? \_\_\_\_\_

Driver's License Number: \_\_\_\_\_ State of Issuance: \_\_\_\_\_

.....  
Defense Attorney Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

.....  
Are you a United States citizen or legal alien? \_\_\_\_\_

*Proof of citizenship or legal alien residency is required. Noncitizens must have entered the United States lawfully and in accordance with the requirements of the U.S. Citizenship and Immigration Services (USCIS) and provide verification of residency status, e.g. valid work permit, visa, or green card if approved for the Diversion program.*

In what other cities and states have you lived? Please list below. If you need more space, use blank sheet of paper.

City	State	Dates lived there

Marital Status: \_\_\_\_\_ Spouse's Name: \_\_\_\_\_

Nearest Contact Name: \_\_\_\_\_ Relationship to Defendant: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Address: \_\_\_\_\_

.....

Number of Minor Dependents: \_\_\_\_\_

Are you the primary care giver? \_\_\_\_\_

**Names**

**Ages**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

.....

**Education**

Do you have a high school diploma or GED? \_\_\_\_\_

Educational and Vocational Training (include high school or highest grade completed if not high school graduate as well as education beyond high school):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

.....

**Treatment History**

Have you ever attended Alcohol or Drug treatment or counseling or received an assessment for possible drug or alcohol problems? \_\_\_\_\_

If yes, state when, where, the reason for attendance or assessment and whether it was successfully completed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

.....

**Employment**

Prior Military Service: \_\_\_\_\_ Branch: \_\_\_\_\_

Type of Discharge: \_\_\_\_\_ Date of Discharge: \_\_\_\_\_

Present Employment: \_\_\_\_\_ Employer: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Dates Employed: \_\_\_\_\_ to \_\_\_\_\_ Occupation: \_\_\_\_\_

Salary: \_\_\_\_\_

Past Employment: List employment for the past six years. Begin with last employer. If you need more space, use blank sheet of paper.

Employer: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Dates Employed: \_\_\_\_\_ to \_\_\_\_\_ Occupation: \_\_\_\_\_

Reason Left: \_\_\_\_\_

Employer: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Dates Employed: \_\_\_\_\_ to \_\_\_\_\_ Occupation: \_\_\_\_\_

Reason Left: \_\_\_\_\_



**Income**

Defendant's Income: \$ \_\_\_\_\_ per Month

Spouse's Income: \$ \_\_\_\_\_ per Month

Public Assistance: \$ \_\_\_\_\_ per Month

Other Income: \$ \_\_\_\_\_ per Month

Unemployment Compensation: \$ \_\_\_\_\_ per Month

**Personal References**

Name: \_\_\_\_\_ Telephone No: \_\_\_\_\_

Address: \_\_\_\_\_

Relationship to Defendant: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone No: \_\_\_\_\_

Address: \_\_\_\_\_

Relationship to Defendant: \_\_\_\_\_

Do you have a C.D.L.? \_\_\_\_\_ Yes \_\_\_\_\_ No Citation Given by: \_\_\_\_\_ Sheriff's Dept. \_\_\_\_\_ Hwy Patrol

Have you ever been charged with DUI before? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please list the information regarding your prior DUI: \_\_\_\_\_

\_\_\_\_\_

Have you received a diversion before? \_\_\_\_\_ Yes \_\_\_\_\_ No

When & For What: \_\_\_\_\_

State the circumstances which led to the offense with which you are charged: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Any additional information you wish to provide: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FOR OFFICE USE ONLY**

Application Fee: \_\_\_\_\_ Date Received: \_\_\_\_\_ Case No: \_\_\_\_\_

**Authorizations**

I hereby apply for status as a participant in the Diversion Program and request that the Marion County 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 County Attorney, to provide the necessary time for my diversion application to receive a full and complete review by the County Attorney's Office. I understand that the final decision to continue criminal proceedings or to defer prosecution in my case rests entirely with the County Attorney. I have had the opportunity to consult with legal counsel.

I authorize the County Attorney's Office to conduct an investigation to determine my suitability 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 County Attorney will resume prosecution on the original charges.

I understand and agree that in the event that 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 Diversion Agreement 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. I understand that failure to respond to any question will render the application incomplete and the County Attorney's Office will not consider the application.

I declare (or 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 attached application for Diversion and responses thereto and that all information contained in the foregoing application for Diversion is true and correct.

Dated: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_

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

Dated: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_

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

Dated: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_