



**OFFICE OF THE COUNTY ATTORNEY
McPHERSON COUNTY, KANSAS**

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**TRAFFIC INFRACTION DIVERSION PROGRAM
POLICY AND PROCEDURES**

Pursuant to K.S.A. 22-2907, the McPherson County Attorney has established the following guidelines for the diversion application process. These guidelines are effective for any offense committed on or after July 1, 1997. No qualified applicant will be denied diversion solely due to inability to pay any of the costs thereof. No person shall be denied diversion on the basis of race, color, national origin, sex, age, disability, surname, or religious affiliation.

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 Defendant to establish that a diversion agreement will best serve the ends of justice, the interests of the community, public safety, and the rights of the victims.

In determining whether or not to grant diversion, the County Attorney will consider whether the Defendant demonstrates a genuine sense of remorse and is prepared to acknowledge the act(s) charged and accountability for the consequences of his or her actions. Other factors to consider are the nature of the crime and the circumstances surrounding it, the probability that the Defendant will cooperate and benefit from the program, the impact on the community of placing the Defendant on diversion, the recommendations of the involved law enforcement officers and victims, the amount of restitution owed, and any mitigating and aggravating circumstances surrounding the crime.

It is not required that a defendant have an attorney for the purpose of diversion. A defendant on an adult criminal case has the right to obtain an attorney and have him or her present throughout the diversion application process. Defendants that are approved for diversion may be required to pay any court appointed attorney's fees.

ELIGIBILITY

If the Defendant does not have more than one moving violation on their driving record in the past 12 months or more than two moving violations in the past 24 months, they may be eligible for a traffic diversion.

- Drivers with a valid Commercial Driver's License (CDL) per K.S.A. 8-2,150 are not eligible for diversion of moving violations. A driver or a holder of a commercial driver's license may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law. A person shall be considered a holder of a commercial driver's license if the person was a holder of a commercial driver's license at the time the person was arrested or was issued a citation and shall remain a holder of a commercial

driver's license even if the person surrenders the commercial driver's license after the arrest or citation.

- Traffic Violations committed in a road construction/road work zone or in a school zone are not eligible for diversion.
- A defendant already on a Diversion Program is generally not eligible for Diversion.

PROCEDURE

The Defendant shall complete this Application for the Traffic Infraction Diversion Program and submit the Application with a \$20.00 non-refundable fee before or within two weeks after the First Appearance date in Court.

If the Defendant's Driver's License is registered in a state other than Kansas, the Defendant must include a Certified Copy of their Driving Record when submitting this Application. The Diversion Application cannot be processed without this information.

If the Defendant is interested in participating in the Diversion Program, the Defendant must not pay the fine and court costs until they have received a Diversion Agreement, which must be signed and returned to the County Attorney's Office by the due date. The Diversion Agreement must be accompanied by the total amounts due. The amounts due will be a Diversion Fee plus the original Fine and Court Costs. The Diversion Fees are as follows:

1-10 MPH over the posted speed limit:	\$50.00 (diversion fee) + \$108.00 (Court Costs) + fine
11-15 MPH over the posted speed limit:	\$100.00 (diversion fee) + \$108.00 (Court Costs) + fine
16-20 MPH over the posted speed limit:	\$150.00 (diversion fee) + \$108.00 (Court Costs) + fine
21+ MPH Over:	\$200 + \$10 for every MPH over (diversion fee) + \$108.00 (Court Costs) + fine
Other Infractions:	\$100(diversion fee) + \$108.00 (Court Costs) + fine

If a defendant does not qualify for diversion, they will be notified by mail. The defendant will still have the same options as originally available at the time the citation was written.

Any questions regarding Fees and Court Costs for your offense can be directed to the Diversion Coordinator, (620) 241-1027 x 3.

Any questions regarding the scheduled court hearings in a case should be directed to the McPherson County District Court at (620) 241-3422.

Case: _____ Application Fee: _____ Date Received: _____

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APPLICATION FOR TRAFFIC INFRACTION DIVERSION PROGRAM

All answers must be complete. After completing the Application, please return it to the County Attorney's Office with the \$20.00 non-refundable Application Fee; cash, check, or money order are accepted. Application Fee must be made payable to McPherson County. A waiver of the Application Fee due to severe financial hardship may be requested and will be considered upon submission of a completed Application. This application must be completed and returned, by mail or in person, to the County Attorney's Office before or within fourteen (14) days after the First Appearance in Court. Out of State Drivers must include a Certified Copy of their Driving Record with this Application.

Last Name First Name Middle Name

Street Address

City State Zip Code Primary Phone Number

Social Security Number Date of Birth (MM/DD/YYYY) Race Sex

Driver's License Number State of Issuance CDL?

Defense Attorney Name (if any)

Defense Attorney Address Phone Number

Citation Number Date Received

Prior traffic offenses: How many traffic tickets have you received within the past two (2) years, whether convicted, found not guilty, still pending, dismissed, or received diversion?

_____ Number of tickets What states were the tickets issued in?

I hereby apply to be a participant in the McPherson County Traffic Diversion Program, waive speedy trial and ask for a continuance of the trial for at least three (3) months and until after the completion of the diversion period, with the delay to be charged to me. I agree that failure to respond to the information sought or the giving of false or incorrect information in the application is grounds to deny diversion or remove me from the program. I admit I committed the traffic offense alleged in the Uniform Notice to Appear and Complaint (ticket). I declare under penalty of perjury that the information in the application is true and correct.

Signature

Date