

## **Driving Under the Influence Diversion Information and Application**

You are currently charged with Driving Under the Influence in the Lenexa Municipal Court. If this is your first offense, you may be eligible for Diversion. The Diversion Program is an alternative to the normal court disposition of criminal cases, which would result in dismissal of charges if certain conditions are completed successfully. Whether or not a person is granted the privilege of entering into a Diversion Agreement with the City Prosecutor's Office is solely at the discretion of the City Prosecutor's Office. The City Prosecutor's Office will run a record check on all diversion applicants to ensure only eligible applicants are considered.

### **ELIGIBILITY**

You are not eligible for Diversion on a Driving Under the Influence of Alcohol/Drugs (DUI) charge with the City Prosecutor's Office if any of the following apply to you:

1. You have a conviction, suspended imposition of sentence (SIS), or participated in a diversion program (formal or informal) for a DUI or driving while impaired offense in any Federal, State, County or Municipal Court at any point in your lifetime.
2. An injury occurred to any person during the offense for which you are seeking diversion.
3. Your blood alcohol concentration was 0.25 or greater.
4. At the time of the alleged offense, you had commercial driving privileges.

In addition to the factors above, the City Prosecutor's Office may consider other factors to ensure you are a good diversion candidate. These factors include, but are not limited to, the following:

- Facts of the case, including any injuries to the defendant
- One or more children were affected in some way by your driving behavior, either as a passenger or otherwise.
- Prior criminal history, including, but not limited to:
  - any felony arrest, conviction, suspended imposition of sentence (SIS) or participated in a diversion program (formal or informal), for a felony charge within the last ten (10) years in any Federal, State, County or Municipal Court.
  - any misdemeanor arrest, conviction, suspended imposition of sentence (SIS) or participation in a diversion program (formal or informal), for a misdemeanor charge within the last five (5) years in any Federal, State, County or Municipal Court.
- Input from victim(s) or others impacted by the case
- Information from a drug and alcohol evaluation
- Information from the diversion application
- Mitigating or aggravating circumstances/facts
- Any other factors listed in K.S.A. 12-4415.

## THE PROGRAM PROCESS

1. To be considered for the Diversion Program, you must complete and sign a Diversion Application (two pages). You are also required to obtain an Alcohol and Drug Safety Action Program (ADSAP) evaluation prior to final acceptance into the program. You may obtain a list of ADSAP providers from the City Prosecutor's Office or Court Clerk. There is a cost to complete the ADSAP evaluation which you will pay directly to the ADSAP provider.
2. You **MUST** ensure the written ADSAP evaluation is submitted to the City Prosecutor's Office prior to the diversion sign-in hearing. This is essential as the City Prosecutor must review the evaluation prior to the determination of diversion eligibility. Failure to provide accurate and truthful information in your Diversion Application may result in the denial of your application for diversion, or revocation of your diversion once in place.
3. If the City Prosecutor offers you a Diversion Agreement in lieu of further criminal proceedings, the City Prosecutor's office will prepare the Diversion Agreement and present it to you for review. If you sign and file the Agreement with the Court, the Municipal Judge shall stay further proceedings on the complaint during the pendency of the diversion. If the City Prosecutor elects not to offer you diversion, your case will be set for plea or trial.
4. **COSTS.** You must be prepared to pay at least half of the diversion fee at the time you sign the agreement. DUI Diversion generally costs \$750.00 to \$1,000.00 fee depending on the facts of the case whether there are additional charges that will be included in the diversion. There may also be additional costs, which include but are not limited to: court costs, finger print fees, appointed attorney fees, laboratory fees including but not limited to the testing of bodily fluids and controlled substances, as well as fees for failures to appear or warrants issued by the court. In lieu of payment of the fee, you may be eligible to perform community service specified by the agreement, consonant with K.S.A. 8-1567, and amendments thereto. The decision between paying a fee and completing community service must be made prior to or at the time of entering the diversion agreement.

## MONITORING THE AGREEMENT

You will be supervised during the term of the Diversion Agreement by a Court-approved monitor. You must follow all terms and conditions of the Diversion Agreement and directives of your diversion monitor. Failure to do either of these will result in a motion to revoke the Diversion Agreement.

## TERMINATION OF THE DIVERSION AGREEMENT

1. Successful completion of your Diversion Agreement will result in dismissal with prejudice of the charge(s) against you.
2. If you fail to complete the terms and conditions of the Diversion Agreement, the City Prosecutor's Office will file a motion to revoke and set the case for a diversion revocation hearing. If the court agrees you have violated the agreement by a preponderance of the evidence, the Agreement will end, the original charges against you will be reinstated and your case will be determined pursuant to the stipulations you agreed to in the Diversion Agreement.



**Driving Under the Influence  
Diversion Information and Application**

**PERSONAL INFORMATION**

Name \_\_\_\_\_ Date of Birth \_\_\_\_\_  
(Last) (First) (Middle)

Address \_\_\_\_\_  
(Street) (City) (State) (Zip)

Email Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Social Security Number \_\_\_\_\_

Driver's License Number \_\_\_\_\_ State of Issue \_\_\_\_\_

Spouse/Dependent(s) \_\_\_\_\_

In what other cities and states have you lived?

<b>City</b>	<b>State</b>	<b>Approximate Dates</b>
-------------	--------------	--------------------------

_____	_____	_____
_____	_____	_____

**Employment/Education Information**

Please indicate your highest level of education completed \_\_\_\_\_

Employer \_\_\_\_\_ Address \_\_\_\_\_

Job Title \_\_\_\_\_ How Long \_\_\_\_\_

Salary \_\_\_\_\_

Past Employer \_\_\_\_\_ Address \_\_\_\_\_

Job Title \_\_\_\_\_ How Long \_\_\_\_\_

Salary \_\_\_\_\_ Reason Left \_\_\_\_\_



### Driving Under the Influence Diversion Information and Application

#### Criminal History Information

Please list all prior Juvenile and Adult incidents, arrests, convictions, diversions and/or juvenile adjudications including any offenses expunged, plea bargained or dismissed. **ALL CRIMINAL HISTORY MUST BE INCLUDED.** Failure to provide accurate criminal history information on this application may result in the denial of your diversion application or the revocation of your diversion.

Date	Charge(s)	Location	Disposition

#### Application Questions

- 1. Please explain why you are seeking a diversion and why you should be considered for diversion:
  
  
  
  
  
  
  
  
  
  
- 2. Please explain why you feel you could successfully complete the diversion program:
  
  
  
  
  
  
  
  
  
  
- 3. Please state the circumstances which led to the offense with which you are charged:

I have read the above application. I certify that all information provided is true, complete and accurate to the best of my knowledge. I understand that providing incomplete or inaccurate information may result in the denial of my application for diversion or revocation of my diversion.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date