

OFFICE OF FINNEY COUNTY ATTORNEY

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SPEEDING/INFRACTION DIVERSION PROGRAM

Pursuant to K.S.A. 22-2906 *et.seq.*, the County Attorney of Finney County, Kansas has established a Diversion Program for speeding and traffic infraction cases.

Diversion of prosecution is a privilege and not a right. There is no presumption of diversion in any case, and the burden of persuasion falls upon the Defendant to establish that a Diversion Program will serve the ends of justice and the interests of the community.

All Defendants charged with speeding or traffic infractions shall be eligible to apply for diversion using the prescribed application form (attached) and submitting copies of the front and back of all traffic tickets and a \$40.00 non-refundable application fee.

EXCEPTION - Pursuant to K.S.A. 8-2,150(a), a driver who commits a traffic violation, in any type of motor vehicle and who owns or possesses a commercial driver's license (CDL) is prohibited from entering into a diversion agreement for traffic violations, except parking violations.

Applications will not be accepted if the Defendant failed to either submit the completed application, or contact the County Attorney's office for a one-time only extension of time, prior to the appearance date noted on the ticket. If you apply between the court date on the ticket and the receipt of a 30 day notice from the Court, then your diversion fee will increase. If you are already suspended, we cannot grant a diversion.

Upon review of the application, the Finney County Attorney's Office will decide if diversion is an acceptable alternative for the Defendant. Although not intended to be exclusive, the following may be considered in determining whether diversion is in the best interests of justice and the community.

1. Nature of the infraction(s) and the circumstances surrounding it.
2. Any special characteristics or circumstances of the Defendant.
3. Previous record of the Defendant
4. The probability that the Defendant will cooperate with and benefit from diversion.
5. The appropriateness of the Diversion Program for the needs of the Defendant.
6. Provisions for restitution, if any.
7. Recommendations of the law enforcement agency involved.
8. Any mitigating circumstances.

If the Defendant is found suitable for the Diversion Program, a written Diversion Agreement shall be offered to the Defendant for acceptance or rejection. If no action is taken by the Defendant or his/her counsel in the time allotted, the offer will be considered withdrawn. Although not exclusive, the agreement may contain the following requirements:

1. A waiver of the Defendant's right to a speedy trial.
2. An agreement the Defendant will not violate any federal, state or local laws while on diversion. Being charged with another offense while on diversion is grounds for revocation of the Defendant's diversion; no conviction is required.
3. An agreement the Defendant shall report as instructed to the Diversion Coordinator.
4. A specified term of diversion, generally ranging between one and six months.
5. Payment of Court Costs of \$108.00, a \$10.00 contribution to Crimestoppers, and a charitable contribution of \$20.00 to \$75.00 depending upon the speed driven over the posted zone. The contribution amount will be doubled if the speeding infraction occurred in a construction zone. If there are additional infractions in the case, the amount of the charitable contribution will be increased for each count.
6. Payment of a Diversion Fee of \$75.00 to \$850.00 [minus the \$40.00 application fee] depending upon the speed driven over the posted zone.

Upon the Defendant signing the written agreement, the traffic case shall be suspended by appropriate order of the Court. The filing of the Agreement with the Clerk of the Court shall act as a general continuance of the proceedings until the conclusion of the Agreement. **Absolute compliance with all of the terms and conditions of the Agreement will be required.**

All costs and fees set forth in the Agreement will be due and must be paid in their entirety on the day the Agreement is signed. All monies paid must be in the form of a cashier's check, money order, attorney's trust account check, or cash, and made payable to the "Finney County Attorney."

If and when the Defendant has successfully fulfilled the terms and conditions of the Agreement, the County Attorney shall have all of the charges against the Defendant dismissed with prejudice.

If the Defendant fails to fulfill the terms and conditions of the Agreement, the County Attorney will request that the diversion be revoked. After an appropriate hearing, the Court, upon finding that the defendant failed to fulfill the terms of the Agreement, may order diversion terminated and a resumption of the traffic case proceedings.

The Finney County Attorney does hereby advise all prospective applicants for diversion to consult with their own attorney prior to executing any diversion Agreement, to determine any and all effects which said Agreement may have upon the individual Defendant.

FAST TRACK DIVERSIONS

If a motorist meets the following requirements, they may be eligible for a “fast track” diversion. A fast track diversion is an expedited diversion for eligible motorists. An eligible motorist will fit the following requirements:

- (1) Have a valid, state-issued driver's license and current proof of insurance for the vehicle in which he or she was ticketed;
- (2) **Not be a commercial driver's license (CDL) holder;**
- (3) Not have been operating a commercial vehicle at the time he or she was ticketed;
- (4) Have committed only a qualified offense or qualifying offenses;
- (5) Not have been fault in any vehicular crash in connection with the ticket (both injury and non-injury crashes are disqualifying);
- (6) Not have participated in the Fast Track Diversion Program in Finney County, Kansas, within the past twelve months;
- (7) Attend all scheduled court hearings unless properly excused by the court, the prosecuting attorney, and/or the motorist's attorney;
- (8) Apply for participation in the Fast Track Diversion Program no later than the court date noted on his or her ticket.

The motorist is charged with multiple offenses, each and every offense must be eligible for a fast track diversion; otherwise, the motorist is not eligible to participate in the Fast Track Diversion Program.

The Office of the Finney County Attorney retains the right to deny a motorist's application for a fast track diversion, so long as the denial is not made on the basis of a motorist's race, sex, religion, sexual orientation, national origin, ethnicity, or any other protected classification.

Date App Recd: _____

Court Case No. _____

SPEEDING/INFRACTION DIVERSION APPLICATION

I. PERSONAL INFORMATION

Last Name _____, First Name _____, M.I. _____

Date of Birth: ____/____/____ Social Security Number: _____

Sex: Male Female Phone # (Home) _____ (Cell) _____

Driver's License # (include state) _____

Is this a Commercial Driver's License? Yes No

Is a Commercial Driver's License required for your employment? Yes No

Current Address Information: _____

Mailing Address, if different: _____

Email Address: _____

Employer Name: _____ Phone #: _____

Employer Address: _____

II. PARENTAL INFORMATION

If you are under the age of 18, please list your parent or guardian information.

Mother (Name, Address, Daytime Phone))

Father (Name, Address, Daytime Phone)

III. TICKET INFORMATION

Ticket(s) # _____ Date of Ticket(s): ____/____/____

Charges on ticket(s): _____

Was this ticket(s) the result of an accident of any kind? YES NO

Are you presently on Diversion for any other charges? YES NO

Are you interested in a Fast Track Diversion at an additional fee? YES NO

If YES, what are the charges and in what County and State is the case filed? _____

I hereby swear under penalty of perjury, that I have answered this application truthfully and to the best of my knowledge. I also understand that any false information contained in the application will be a basis for the revocation of any diversion agreement.

Signature of Defendant: _____ Date: _____

TO SUBMIT THIS APPLICATION FOR CONSIDERATION IT MUST HAVE:

- 1. \$40.00 NON-REFUNDABLE CASHIER'S CHECK, OR MONEY ORDER.**