



LINDSBORG CITY DIVERSION PROGRAM POLICY AND GUIDELINES

YOU ARE NOT ELIGIBLE FOR DIVERSION IF:

You have been convicted of or adjudicated of an alcohol or drug related offense including any offense committed while under the influence of alcohol or drugs, etc.

You have been convicted of, or adjudicated of, a felony in any jurisdiction.

You have charges pending currently for a misdemeanor or felony in any jurisdiction.

You were uncooperative with Law Enforcement.

Any other reason, based on the discretion of the City Prosecutor.

FACTORS OF ELIGIBILITY

Factors that are considered for eligibility, pursuant to statute are:

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

DIVERSION PROCEDURE

An application for Diversion must be completed before the Arraignment.

Once an application is made, Defendant will be notified of acceptance, denial or if more evidence is needed before a determination is made.

You must attend all court appearances while your application for diversion is pending UNLESS you are told otherwise by the Court, Prosecutor or your attorney.

The diversion agreement shall be signed by the Offender and the City Prosecutor before the diversion is in effect.

Upon the offender entering into a diversion agreement, the criminal proceedings shall be suspended; and, upon the offender's successful completion of the terms and conditions of said agreement, the City Attorney shall have the charge/s against the offender dismissed with prejudice.

REQUIREMENTS OF A DIVERSION CONTRACT

If accepted for diversion, the parties shall enter into a written diversion agreement. The written diversion agreement requires you to:

1. Waive of all rights to a speedy trial;
2. Agree to a specified term (period) of diversion, generally 6-12 months;
3. Agree that you will not violate *any* laws of the United States, Kansas, and city or county ordinances;
4. Report to Diversion Officer, or any other person or agency at any time he/she may be ordered to do so by the Prosecutor/Diversion Officer;
5. Pay all costs, fines, and court-assessed attorney's fees, if any;
6. Give your current address, sex, date of birth, driver's license number, phone number and social security number; AND notify Diversion Officer immediately of any change in address, phone or employment;
7. Stipulate or agree to the facts contained in the police report and/or complaint. You must also agree any trial or appeal will be based solely on those facts;
8. Comply with special conditions, which may include, but are not limited to the following: payment of full restitution payment to the victim/s; maintain employment or mandatory school attendance; participate in any recommended programs, including but limited to educational, drug/alcohol, tobacco, driving, or mental health programs; Pay all fees for required evaluations and programs; Pay a diversion fee of \$25.00 per month for each month of diversion as specified in the agreement.

BENEFIT OF A DIVERSION

If you successfully complete the terms of the diversion, the charges will be dismissed with prejudice, which means they cannot be re-filed.

YOUR DIVERSION MAY BE REVOKED IF:

- You fail to appear in Court
- You fail to pay costs/fine/restitution by deadline
- You get new criminal charges in ANY court
- You fail to complete any conditions such as community service or other programs required
- You refuse a breath, blood or urine test requested by a law enforcement officer
- You do not appear at diversion meetings as requested by the diversion officer
- You fail to maintain contact with the diversion officer

If you fail to fulfill the terms and conditions of diversion, the City Prosecutor shall file a Motion to Resume Prosecution which will be heard by the Judge, and if granted, the diversion agreement shall be terminated and the original criminal proceedings shall be resumed.

Lindsborg City Prosecutor
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