



# ANDERSON COUNTY ATTORNEY'S OFFICE

Elizabeth L. Oliver, County Attorney  
Traffic Diversion Program Guidelines  
Updated January 15, 2013

## **PLEASE READ - FAILURE TO FOLLOW INSTRUCTIONS COULD RESULT IN DELAY AND/OR DENIAL OF DIVERSION**

### **TRAFFIC DIVERSION POLICY**

The Anderson County Attorney has established the following guidelines for the diversion application process in all traffic cases, with the exception of DUI cases. These guidelines are effective for any cases pending or offenses committed on or after January 15, 2013. It is not required that an applicant have an attorney for the purpose of a traffic diversion.

Diversion is a privilege and not a right. No presumption in favor of diversion exists in any case.

#### **General Eligibility:**

The County Attorney will consider a number of factors in determining whether or not diversion is appropriate. Generally, a person is eligible to receive a traffic diversion if they have no previous traffic citations, convictions, or diversions for a moving violation within the last year, no more than 3 moving violations in the last 3 years, and no previous DUI citations, convictions, diversions or serious offense citations, convictions, or diversions within the last year.

In addition to the above circumstances, a person will **NOT** be diversion eligible in the following circumstances:

- 1) Traffic offenses that result in personal injury of any kind to anyone.
- 2) Traffic offenses that result in a multi-vehicle accident.
- 3) Speeding offenses that exceed the legal limit by over 30 mph.
- 4) Speeding offenses that occur in a school zone.
- 5) Speeding offenses that occur in a posted construction zone.
- 6) Driving while suspended (unless license is reinstated) or habitual violator.
- 7) Fleeing or eluding a police officer.
- 8) Disobeying a railroad crossing signal. (see K.S.A. 8-1551)
- 9) Disobeying a railroad crossing stop sign. (see K.S.A. 8-1552)

- 10) Failing to stop at a railroad crossing. (see K.S.A. 8-1553)
- 11) Passing a school bus. (see K.S.A. 8-1556A)
- 12) Driving with no liability insurance (unless you now possess six months of coverage).
- 13) Failure to yield to an emergency vehicle. (see K.S.A. 8-1530)
- 14) Any traffic offense other than a parking violation if the person possesses a commercial driver's license (CDL) regardless of what type of vehicle the person was driving at the time of the offense. (See K.S.A. 8-2150)
- 15) Driving while suspended and driving with no liability insurance with one or more prior convictions.

### **Procedures**

- 1) **All court appearances must be attended during the application process unless there is prior approval from the Court or the County Attorney.** Only the Court can grant a continuance of a court hearing.
- 2) The Applicant **MUST** sign a statement under oath as to the facts and circumstances surrounding the ticket and that he/she has not received any prior reductions, diversions, or convictions in the twelve (12) months preceding the current ticket.
- 3) If the ticket is for Driving While Suspended the applicant **MUST** submit a letter of reinstatement with the diversion application or the application will be denied.
- 4) If the ticket is for No Proof of Insurance the applicant **MUST** submit proof of current liability insurance or non-owners insurance for six months with the diversion application or the application will be denied.
- 5) The Applicant (if Pro Se - representing oneself) or the Applicant's attorney will be notified whether or not the diversion application has been approved or denied.
- 6) Full payment must be received upon the filing of the diversion agreement.
- 7) Traffic diversions are six (6) months in length with an additional thirty (30) days following the expiration of the diversion to allow the County Attorney's Office to discover any violations of the diversion which occurred during the term of diversion. If you have not had any violations of the law, including traffic tickets, within the six (6) month diversion period, your case will be dismissed.
- 8) Once granted diversion, you are required to keep the County Attorney's Office informed of all address changes, criminal and/or traffic violations. Failure to inform the County Attorney's Office of such will result in the County Attorney's Office filing a Motion to Resume Prosecution in the case, which could ultimately lead to a conviction.

9) All questions with regard to the diversion should be directed to the County Attorney's Office.

### **EFFECT**

The filing of the diversion agreement with the Clerk of the District Court of Anderson County, Kansas, shall act as a general continuance of the proceedings until the conclusion of the diversion agreement. When the defendant has successfully fulfilled the terms and conditions of the diversion agreement, the County Attorney shall move to have all of the charges against the defendant dismissed with prejudice. If the defendant fails to fulfill the terms and conditions of the agreement for diversion, the County Attorney will request that prosecution be resumed. After an appropriate hearing, the Court, upon finding that the defendant failed to fulfill the terms of the diversion agreement, may order diversion terminated and resumption of the criminal proceedings on the original complaint.

The Anderson County Attorney's Office does hereby advise all prospective applicants for diversion of prosecution to consult with their own attorney prior to executing any diversion agreement, to determine any and all affects which said diversion agreement might have upon the individual defendant.

It is extremely important that the defendant understand that diversion is a privilege and not a right, and **absolute compliance** will be required. Absolute compliance with the conditions of diversion, including the timely making of any and all payments under the diversion contract, on the dates specified therein will be required. The County Attorney's Office will not excuse any non-compliance no matter how slight.

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