

McPHERSON COUNTY



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2010 Criminal Diversion Program Application

Dear Applicant:

This packet is designed to assist you in applying for a diversion of the charges you are currently facing in McPherson County District Court.

What is diversion?

When you have been charged with a crime and it appears to the County Attorney that it would be in the best interest of justice and of benefit both to you and the community, he may offer you a diversion agreement. If you successfully complete the obligations of the program described in the diversion agreement, the County Attorney will act to have the criminal charges against you dismissed. Diversion helps to keep you out of the court system and gives you a second chance to have a clean record.

Who is eligible for diversion?

The following factors are considered in determining who is eligible for diversion: (1) The nature of the crime and the circumstances surrounding it; (2) any special characteristics or circumstances of the applicant; (3) whether you are a first-time offender and if you have previously participated in diversion; (4) your willingness to cooperate with and benefit from diversion; (5) if there is an available diversion program to meet your needs; (6) the impact of the diversion on the community; (7) recommendations of the involved law enforcement agency; (8) recommendation of the victim; and (9) provisions for restitution.

How do I apply for diversion?

Simply complete the attached application and return it to the McPherson County Attorney's Office with the \$50.00 non-refundable application fee within thirty (30) days of your First Appearance in court. The County Attorney and the Diversion Coordinator will then review your application. Please note that the County Attorney reserves the right to make the final determination of an applicant's suitability for diversion. You will be notified of the County Attorney's decision. Upon acceptance of your application, an appointment will be scheduled for you to review the proposed diversion agreement with the Diversion Coordinator. Please be advised that you do have the right to be represented by an attorney and to have your attorney present with you at the scheduled diversion conference.

What can I expect the requirements of a diversion agreement to be if my application is accepted?

A diversion agreement will include, but is not limited to: a waiver of all rights to a speedy trial; a specified diversion period; you will agree to conduct yourself as a law abiding citizen at all times; report for scheduled meetings with the Diversion Coordinator; provision for payment of all restitution, court costs, diversion costs, laboratory fees, background check fees, driver's record fees, school transcript request fees, costs for participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services; you must attend school or maintain gainful employment; and both you and your attorney if you are represented by an attorney will stipulate to (or agree to) the facts of your case.

What will happen if my application is not accepted for diversion or if I decide to not enter into a diversion agreement?

If your application is not accepted for diversion or if you decide to not accept the diversion agreement offered to you, you will need to appear in court for your next scheduled hearing and follow the instructions of the judge and your attorney.

What can I expect the consequences to be if I fail to fulfill the terms of my diversion agreement?

If you fail to fulfill the terms of your diversion agreement, the County Attorney will notify the Court that the diversion agreement has been terminated and the original criminal proceedings on the complaint will resume. All future criminal proceedings will be conducted on the record of the stipulation of facts relating to the complaint.

What is the benefit to me if I successfully fulfill the terms of my diversion agreement?

When you successfully fulfill the terms of your diversion agreement, the County Attorney will act to have the criminal charges against you dismissed and will notify the appropriate agencies for example, the Kansas Bureau of Investigation and the Division of Motor Vehicles of your successful completion of the diversion program.

It is my hope that this information has answered your general questions about the diversion program. Please feel free to contact me with additional questions you may have. I look forward to the opportunity to work with you!

Very truly yours,

Jennifer K. Farr-Brewer

Diversion Coordinator
McPherson County

Who do you live with?

Name

Relationship

How long have you lived at this address? _____

2. Age: _____ 3. Date of birth: _____ 4. Race: _____ 5. Sex: _____

6. City and state where born: _____

7. In what other cities and states have you lived?

City

State

Dates Lived There

8. Social Security No.: _____ 9. Drivers License No. _____ State _____

10. Marital Status: _____ Spouse's Name: _____

Spouse's Employment: _____ Spouse's Age: _____

11. Number of Minor Dependents: _____

Name of Dependant

Relationship

Age

12. Education and vocational training (include high school or highest grade completed if not high school graduate)

Name of School

Location

Dates Attended

Grade or Degree

13. Have you been in the military? _____ Yes _____ No What branch? _____

Type of Discharge/Date: _____

14. Nearest Contact:

Name: _____ Home Phone: _____
(last) (first) (middle) Alt. Phone: _____

Address: _____

Relationship to you: _____

15. Defense Attorney:

Name: _____ Telephone: _____

Address: _____

16. Present Employment:

Employer: _____ Telephone: _____

Address: _____

Date of Hire: _____ Occupation: _____

Salary: _____

17. Employment History:

Employer: _____ Telephone: _____

Address: _____

Dates Employed: _____ to _____ Occupation: _____

Reason Left: _____

Employer: _____ Telephone: _____

Address: _____

Dates Employed: _____ to _____ Occupation: _____

Reason Left: _____

Employer: _____ Telephone: _____

Address: _____

Dates Employed: _____ to _____ Occupation: _____

Reason Left: _____

18. Present Income Sources:

Defendant's Employment: \$ _____ / month

Spouse's Employment: \$ _____ /month

Unemployment Compensation: \$ _____ /month

Public Assistance: \$ _____ /month

Other Income: \$ _____ /month

(If other income, please indicate source, relatives, friends, etc.)

19. Prior Traffic Offense Record (List all juvenile incidents, arrests, citations, orders to appear, prosecutions, convictions, expungements or deferred prosecution agreements in Kansas or any other states, including those not resulting in formal charges or convictions. Include date of incident, agency involved, charge and disposition.)

20. Prior Criminal Offense Record (List all juvenile incidents, arrests, citations, orders to appear, prosecutions, convictions, expungements or deferred prosecution agreements in Kansas or any other states, including those not resulting in formal charges or convictions. Include date of incident, agency involved, charge and disposition.)

21. Personal References (Letters of personal reference may be attached.)

Name: _____ Telephone: _____

Address: _____

Relationship to Defendant: _____

Name: _____ Telephone: _____

Address: _____

Relationship to Defendant: _____

Name: _____ Telephone: _____

Address: _____

Relationship to Defendant: _____

22. Have you ever received or attended counseling or treatment for an alcohol, drug, emotional or psychological problem or disorder? _____ Yes _____ No

If yes, state when, where and reason for attendance:

APPLICATION AGREEMENT

I hereby apply for status as a participant in the Diversion Program and request that the County Attorney temporarily delay trial against me in order to permit consideration of this Application. I understand that it is my responsibility to submit a diversion application in a prompt and timely fashion and within the guidelines set by the County Attorney and that it will be my responsibility to seek any continuance or waiver of the jury trial in order to provide the necessary time for my diversion application to receive a full and complete review by the County Attorney's Office. I understand that if the County Attorney's Office is required to make a decision concerning my application prior to the Office having the opportunity to make a full and complete review, my application request will be denied. I further understand that the final decision to commence criminal proceedings or to defer prosecution in my case rests entirely with the County Attorney.

I authorize the County Attorney's Office to conduct an investigation to determine my suitability for this program. I understand that any information provided by me or authorized to be released by me to the County Attorney's Office will be kept confidential.

A false answer to or omission of any question in this Application shall be grounds for recommendation against placement into this program or removal from the program after placement. I understand that the County Attorney will then resume prosecution of the original charge(s).

I understand and agree that in the event it is learned I have falsified or omitted any part of the Application for Diversion, including, but not limited to, my listing of prior traffic and criminal offenses, it shall be considered a violation of my Pre-trial Diversion Agreement and I may be removed from the Diversion Program. I agree that a criminal justice report, including, but not limited to, a Department of Justice report, KBI report, Police Department and/or Sheriff's Department report, and/or a Department of Revenue report, may be admitted as evidence in any court, without foundation, to prove prior traffic or criminal offenses.

I understand that failure to respond to any question will render this Application incomplete and that the County Attorney's Office will not consider the application.

I declare (or verify, certify or state) under penalty of perjury under the laws of the State of Kansas that I have personally read or have had read to me the above Application for Diversion and responses thereto and that all information contained in the forgoing Application for the Pre-trial Diversion Program is true and correct.

Applicant's Signature

Date

I authorize the County Attorney's Office to conduct a background check of my past employment record and I authorize my present and previous employers to furnish the County Attorney's Office with any information they request. I further authorize the County Attorney's Office to contact my liability insurance carrier and authorize them to release information.

Applicant's Signature

Date

I authorize the County Attorney's Office to release all records in their possession, including, but not limited to, criminal history information and investigation reports to the Diversion Committee, or any other evaluating agency which may participate in evaluating me during my application process.

Applicant's Signature

Date