

LAWRENCE CITY PROSECUTOR'S OFFICE DIVERSION PROGRAM

The following guidelines have been adopted by the Lawrence City Prosecutor's Office for the diversion program in Lawrence Municipal Court. These guidelines supersede prior policies or guidelines and become effective September 1, 2023.

Diversion is a privilege and not a right. No presumption in favor of diversion exists in any case, and the burden of persuasion rests with the applicant to establish that a diversion agreement will best serve the ends of justice and the interests of the community, public safety, and the rights of the victims.

Eligibility; Factors Considered

In determining whether or not diversion is appropriate, the City Prosecutor's Office will consider a number of factors, including, but not limited to the following:

1. The nature of the crime and the circumstances surrounding it.
2. Any special characteristics and circumstances of the defendant.
3. Whether the defendant is a first-time offender.
4. Whether the diversion program is appropriate to the needs of the defendant.
5. The impact of diversion on the community.
6. Recommendations of the involved law enforcement community.
7. Recommendations of the victim.
8. The amount of restitution, if applicable, owed by the defendant.
9. Any mitigating or aggravating circumstances surrounding the crime.
10. Whether there is a probability, the defendant committed the crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury connected to service in a combat zone while in the U.S. Armed Forces; and, if so, whether there is a probability the defendant will cooperate with and benefit from inpatient or outpatient treatment in a facility operated by the U.S. Dept. of Defense, the U.S. Dept. of Veterans Affairs or the Kansas National Guard, with the defendant's consent.

Exclusions

1. A defendant who has a **commercial driver's license** (CDL) is **NOT** eligible for diversion of any traffic offense.
2. A defendant charged with operating under the influence of alcohol or drugs will not be eligible for diversion if:
 - (a) the defendant has a previous conviction or diversion for operating under the influence of alcohol or drugs, or
 - (b) the defendant was, at the time of the alleged operating under the influence, involved in a motor vehicle accident resulting in injury or death of another person, or
 - (c) the defendant has, or at the time of the offense, had a commercial driver's license.
3. A defendant who has an **outstanding balance owed to Lawrence Municipal Court** is not eligible for diversion until the balance owed to Lawrence Municipal Court is zero.

Procedures

You may turn this application in to the Lawrence Municipal Court Clerk accompanied with the required documentation applicable to the offense(s) charged. See pages 2-4 for the list of requirements and approved providers. The application review process may take up to 4-6 weeks. A formal diversion conference may be required. The City Prosecutor's Office will notify you or your attorney in writing whether your diversion agreement has been approved or denied. If the City Prosecutor approves you for diversion, the terms and conditions will be reduced to writing for approval and signature by both parties.

ALL COURT APPEARANCES MUST BE ATTENDED DURING THE APPLICATION PROCESS. FAILURE TO APPEAR IN COURT BEFORE SUBMISSION OF AN ORIGINAL SIGNED AND INITIALED DIVERSION AGREEMENT WILL RESULT IN A BENCH WARRANT.

Required Documentation

- A. The diversion application **must** be completed on the form provided. You may attach additional pages.
- B. A diversion application will not be accepted for a charge of **Operating Under the Influence of Alcohol and/or Drugs (OUI)** without an accompanying **alcohol/substance abuse evaluation**.
- C. A diversion application will not be accepted for a charge of **Possession/Purchase/Consumption of an Alcoholic Beverage by Underage Persons (MIP)** without **proof of completion of an approved alcohol and drug information school**.
- D. A diversion application will not be accepted for a charge of **Possession of Marijuana** without **proof of completion of an approved alcohol and drug information school**.
- E. A diversion application will not be accepted for a charge of **No Insurance** without **proof of current liability insurance** that lists the defendant as a covered driver. *If you do not own a vehicle, you may submit **proof of current NON-OWNER'S liability insurance**.*
- F. A diversion application will not be accepted for a charge of **Theft** without **proof of completion of an approved theft prevention program**.
- G. A diversion application will not be accepted for a charge of **No Ignition Interlock** without **proof of current ignition interlock**.

The Diversion Agreement

The standard diversion agreement length is twelve months and may include the following terms:

- 1. Do not violate the law.
- 2. Complete the treatment recommendations of a substance abuse/drug/alcohol evaluation.
- 3. Attend alcohol/drug information school.
- 4. Attend a presentation of the DUI Victim Panel.
- 5. Complete a theft prevention program.
- 6. Complete anger management.
- 7. Complete hours of community service work.
- 8. Pay restitution.
- 9. Pay diversion fees, along with court costs and other administrative fees.
- 10. Complete the treatment recommendations of a domestic violence assessment.
- 11. Complete the treatment recommendations of a mental health evaluation.
- 11. Any other term deemed appropriate for your circumstances.

The executed diversion agreement will be filed with the Lawrence Municipal Court and criminal proceedings will be suspended as long as the defendant fulfills all the terms and conditions of the diversion agreement. If at any time during the diversionary period the City Prosecutor finds that the defendant is not fulfilling the terms and conditions of the diversion agreement, the City Prosecutor may file a Motion to Revoke the diversion agreement and resume criminal proceedings.

Upon successful completion of the terms and conditions of the diversion agreement, the charge(s) will be dismissed with prejudice.

/s/ Elizabeth Hafoka
Supervising City Prosecutor

NO DIVERSION APPLICATION WILL BE ACCEPTED FOR:

OUI - Without an alcohol/substance abuse evaluation

MIP - Without verification of alcohol and drug information school completion

Poss. of Marijuana – Without verification of alcohol and drug information school completion

No Insurance - Without proof of current insurance

Theft - Without verification of theft prevention program completion

No Ignition Interlock - Without proof of current ignition interlock

Approved Alcohol/Substance Abuse Evaluation Providers

| | | |
|------------------------|--|----------------------------------|
| Assessments, LLC | 2706 Iowa St, Suite S, Lawrence, KS 66046 assessmentllc@outlook.com www.assessmentsllc.org | (785) 312-3333 |
| A Connecting Pointe | 302 S. Clairborne Road, Olathe, KS 66062 | (913) 397-0300 |
| DCCCA | 1739 E. 23 rd St., Lawrence, KS 66046 | (785) 830-8238 |
| Heartland Clinical | 5040 SW 28 th , Suite F, Topeka, KS 66614 | (785) 272-2266 |
| Mirror Inc. | 3205 Clinton Pkwy Ct., Lawrence, KS 66047 1401 SW Topeka Blvd, Topeka, KS 66612 | (785) 843-5483 (785) 232-8623 |
| Sims-Kemper Counseling | 1707 SW Medford Ave, Topeka, KS 66604 | (785) 233-0666 |

Approved Alcohol and Drug Information School Providers

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|---------------------|--|----------------------------------|
| Assessments, LLC | 2706 Iowa St, Suite S, Lawrence, KS 66046 assessmentllc@outlook.com www.assessmentsllc.org | (785) 312-3333 |
| A Connecting Pointe | 1715 E. Cedar, Suite 104, Olathe, KS 66062 | (913) 397-0300 |
| DCCCA | 1739 E. 23 rd St., Lawrence, KS 66046 | (785) 830-8238 |
| Heartland Clinical | 5040 SW 28 th , Suite F, Topeka, KS 66614 | (785) 272-2266 |
| Mirror Inc. | 3205 Clinton Pkwy Ct., Lawrence, KS 66047 1401 SW Topeka Blvd, Topeka, KS 66612 | (785) 843-5483 (785) 232-8623 |

Theft Prevention Program

Advent E-Learning
www.advent-elearning.net
Program code: 315

A Connecting Pointe
302 S. Clairborne Road
Olathe, KS 66062
(913) 397-0300

Anger Management

Satori Counseling
www.satoricounseling.com
1045 E. 23rd St
Lawrence, KS 66044
(785) 246-9490
reggie@satoricounseling.com

Associates at Hope Harbor
www.hopeharborkc.com
7227 Metcalf Avenue, Suite 250
Overland Park, KS 66204
(913) 710-5744
kavele@hopeharborks.com

DUI Victim Panel

MADD
www.maddvip.org
1-800-228-6233 option # 3

DUI Victims Center of Kansas
www.duivictimscenterofkansas.com
316-768-2096

Domestic Violence Assessment and Batter's Intervention Providers

Satori Counseling
www.satoricounseling.com
1045 E. 23rd St
Lawrence, KS 66044
(785) 246-9490
reggie@satoricounseling.com

Associates at Hope Harbor
www.hopeharborkc.com
7227 Metcalf Avenue, Suite 250
Overland Park, KS 66204
(913) 710-5744

A Connecting Pointe
302 S Clairborne Rd,
Olathe, KS 66062
(913)-397-0300

Mental Health Evaluation Providers

Bert Nash
www.bertnash.org
200 Maine St, Ste A,
Lawrence, KS 66044
785-843-9192

Satori Counseling
www.satoricounseling.com
1045 E. 23rd St
Lawrence, KS 66044
(785) 246-9490
reggie@satoricounseling.com

Heartland Clinical
5040 SW 28th St, Ste F, Topeka, KS
66614
785-272-2266

A Connecting Pointe
302 S Clairborne Rd,
Olathe, KS 66062
(913)-397-0300

Driving School

GO Driving School, LLC
932 Massachusetts, Ste. 308
Lawrence, KS 66044
(785) 764-2214
office@godrivinglawrence.com

Alive at 25
12345 College Blvd
Overland Park, KS 66210
913-469-2323
www.shcmoks.com

YTOP – Young Traffic Offenders
Program
2316 E Meyer Blvd,
Kansas City, MO 64132
816-276-4218
www.theresearchfoundationks.org

Ignition Interlock

Ace Ignition Interlock
2400 Franklin Rd
Lawrence, KS 66046
(785) 840-9696, 1- 877-223-7999
www.acebailbonds.net

Smart Start
(University Audio)
Lawrence, KS 66044
1-866-747-8278
www.kansasignitioninterlock.com

Action Automotive Services
1120 E. 23rd St
Lawrence, KS 66046
785-551-5599

Auto Accents Collision Repair
2460 Fairfield St
Lawrence, KS 66046
785-246-7919

TFMComm INC 2
910 E. 28th St
Lawrence, KS 66046
785-246-8645

Intoxatolock
www.intoxatolock.com

Budget IID Ignition Interlock
845 Iowa St
Lawrence, KS 66044
877-380-8252

Clear2Drive
1045 New Jersey St
Lawrence, KS 66044
785-975-7794
www.clear2drive.com

CITY OF LAWRENCE
City Prosecutor's Office
1 Riverfront Plaza, Suite #310
Lawrence, KS 66044
(785) 832-6195
prosecutorinfo@lawrenceks.org

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| For Court Use Only: Outstanding balance owed: _____ Docket #: _____ Date Rec'd: _____ Def Atty: _____ Paid: _____ CK # _____ Receipt# _____ Evaluation: _____ AIS certificate: _____ Ins. or Interlock: _____ Theft Course Cert: _____ |
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DIVERSION APPLICATION

Every section in this application must be filled in.
PLEASE WRITE CLEARLY. IF WE CANNOT READ YOUR APPLICATION, WE WILL NOT BE ABLE TO APPROVE YOUR APPLICATION.

*LAST NAME _____ FIRST NAME _____ MIDDLE NAME _____
*ADDRESS _____ CITY _____ STATE _____ ZIP _____
Is your mailing address the same? Yes No (circle one)
If no, please list _____ CITY _____ STATE _____ ZIP _____
*TELEPHONE NUMBER CELL (_____) _____ ALTERNATE (_____) _____
*HOW DO YOU PREFER WE SEND YOU THE NOTICE OF APPROVAL/DENIAL? EMAIL U.S. MAIL (circle one)
*EMAIL ADDRESS (please write clearly) _____
*DATE OF BIRTH ____/____/____ *RACE _____ *SEX _____ *SOCIAL SECURITY # _____
*LIST ANY ALIAS/MAIDEN NAME _____
*DRIVER LICENSE NUMBER _____ *STATE OF ISSUANCE _____
*DO YOU CURRENTLY OR AT THE TIME OF THIS OFFENSE OWN/POSSESS A COMMERCIAL DRIVERS LICENSE? _____
*ARE YOU A U.S. VETERAN? Yes No (circle one)
*DO YOU SUFFER FROM MAJOR DEPRESSIVE DISORDER, POLYTRAUMA, POST-TRAUMATIC STRESS DISORDER OR TRAUMATIC BRAIN INJURY CONNECTED TO U.S. MILITARY SERVICE IN A COMBAT ZONE? Yes No (circle one)

MEDICAL HISTORY - (PLEASE LIST BRIEFLY)

*PHYSICAL/MENTAL CONDITION(S): _____

*LIST ANY PSYCHIATRIC OR PSYCHOLOGICAL TREATMENT RECEIVED:

EDUCATION

*HIGHEST LEVEL OF EDUCATION COMPLETED _____
*ARE YOU CURRENTLY A STUDENT? Yes No (circle one)
*IF STUDENT, ARE YOU A STUDENT AT THE UNIVERSITY OF KANSAS? Yes No (circle one)
*IF STUDENT, LIST PERMANENT/PARENT'S ADDRESS: _____

EMPLOYMENT

*ARE YOU CURRENTLY EMPLOYED? Yes No (circle one)
*If yes, please list: EMPLOYER _____ HOW LONG? _____ TITLE _____
ADDRESS _____ CITY _____ STATE _____ PHONE _____

CRIMINAL HISTORY

(ATTACH ADDITIONAL PAGES IF NECESSARY)

List ALL prior or pending offenses: including criminal, traffic and juvenile.

Include ALL arrests and convictions, even if subsequently expunged.

Also, list any other diversion programs you have previously participated in.

| Date | Offense | Location | Disposition |
|------|---------|----------|-------------|
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*****FAILURE TO MAKE A FULL DISCLOSURE OF ALL ARRESTS, DIVERSIONS, CONVICTIONS, AMENDMENTS, AND EXPUNGEMENTS WILL RESULT IN AUTOMATIC DENIAL OF YOUR APPLICATION.*****

*Have you ever been charged with DUI, OUI, DWI, OWI, or Driving with Excess BAC in any state? Yes No (circle one)
If yes, please explain: _____

*Have you had a conviction or diversion for a felony or misdemeanor in the past 5 years in any state? Yes No (circle one)
If yes, please explain: _____

*ARE YOU CURRENTLY ON DIVERSION OR PROBATION IN ANY COURT? Yes No (circle one)
If yes, please explain: Diversion Probation (circle one) LOCATION _____
CHARGE(S) _____

ADDITIONAL QUESTIONS

*PLEASE STATE IN DETAIL THE FACTS WHICH CAUSED THE CURRENT CHARGES AGAINST YOU TO BE FILED:

*EXPLAIN WHY YOU FEEL YOU SHOULD BE GRANTED DIVERSION:

I have read the foregoing application. All of the information is true and correct. I understand that if any of the foregoing information is not true and correct, this may be a basis for denial of the diversion or a revocation of my diversion. I request a continuance of the court date for my case to allow the city time to review my application and obtain the information necessary to determine whether or not a diversion can be granted. I understand that I have a right to a speedy trial and I knowingly and voluntarily waive the right to speedy trial. I understand that if I am arrested, cited, or charged with a crime after the date of this application; I must disclose the arrest, citation, or charge to the City Prosecutor's Office. I understand that failure to do so may result in my diversion being revoked.

Defendant's Signature

Date