

DOUGLAS COUNTY DISTRICT ATTORNEY'S OFFICE

Diversion Program Guidelines

Charles E. Branson, District Attorney

Updated April 10, 2012

CRIMINAL DIVERSION APPLICATION

The Douglas County District Attorney has established the following guidelines for the diversion application process. These guidelines are effective for any offense committed on or after July 1, 1997.

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, the interests of the community, public safety and the rights of the victims.

In determining whether or not to grant diversion, the District Attorney will consider whether the applicant demonstrates a genuine sense of remorse and is prepared to acknowledge the act(s) charged and accountability for the consequences of his or her actions. Other factors to consider are the nature of the crime and the circumstances surrounding it, the probability that the applicant will cooperate and benefit from the program, the impact on the community of placing the applicant on diversion, the recommendations of the involved law enforcement officers and of the victims, the amount of restitution owed, and any mitigating and aggravating circumstances surrounding the crime.

It is not required that an applicant have an attorney for the purpose of diversion. An applicant on an adult criminal case has the right to obtain an attorney and have him or her present throughout the diversion application process. Applicants that are approved for diversion will be required to pay any court appointed attorney's fees.

Eligibility

The District Attorney will consider a number of factors in determining whether or not diversion is appropriate. It is presumed by these guidelines that diversion is NOT appropriate in the following circumstances:

1. The applicant is charged with a crime contained in Article 34, 35, or 36 of Chapter 21 of the Kansas Statutes Annotated.
2. The applicant is charged with a crime classified as a felony, with the exception of crimes described in K.S.A. 21-3701 (Theft).
3. The applicant is charged with crimes described in K.S.A. 21-5821 (Worthless Checks).
4. The applicant has a prior criminal record which includes convictions, prior diversions, or pending criminal matters not covered by the application.
5. The applicant has been charged with an offense that was committed using a firearm.

Procedures

ALL COURT APPEARANCES MUST BE ATTENDED DURING THE APPLICATION PROCESS
You may turn in this application AFTER your first appearance. YOUR APPLICATION MUST BE RECEIVED WITHIN 30 DAYS AFTER YOUR 1ST TRIAL SETTING OR YOUR APPLICATION WILL BE DENIED.

1. A \$50.00 NON-REFUNDABLE Application Fee must accompany the diversion application or it will not be accepted. Payment shall be made with a **check or by money order or a cashier's check. WE NO LONGER ACCEPT CASH.** If the application fee is paid with a personal check that is returned unpaid for ANY reason the diversion will be denied.
2. The Applicant MUST sign a statement under oath as to the facts and circumstances surrounding the offense(s) and that he/she has not received any prior diversions or convictions (other than traffic infractions).
3. Upon acceptance into the Diversion program, the \$50.00 non-refundable Application Fee will be applied towards the assessed Diversion Costs.
4. If the crime involves alcohol or drugs, the applicant MUST obtain an alcohol or drug evaluation and it can ONLY be obtained from one of the agencies listed on page 3 or page 4. **The evaluation MUST be turned in with the diversion application or the application will be returned.** Cases where the applicant is charged with Minor in Possession of Alcohol, Minor in Possession of Cereal Malt Beverage or Furnishing Alcohol to a Minor are not required to obtain an alcohol evaluation.
5. If the crime involves Domestic Battery, the applicant MUST obtain an evaluation and it can ONLY be obtained from one of the agencies listed on page 4 section C. The evaluation MUST be turned in with the diversion application or the application will be returned. The Domestic Violence Policy for Douglas County is included with this application.
4. The application must be completed on the forms provided by the District Attorney's Office.
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. If the application is denied, notice will be in writing.
6. All Diversion Agreements must be prepared by the Douglas County District Attorney's office. No other Diversion Agreements will be accepted.

NOTE: Haskell Nations University Health Center is approved for ALL (with exception to felony drug diversions) types of evaluations and may be used by any tribal member. The address is 2415 Massachusetts P.O. Box 864, Lawrence, KS 66046, 785-832-4833.

It is the applicant's responsibility to obtain a copy of the evaluation from the agency so that it may be submitted with the application.

A. APPROVED AGENCIES FOR ALCOHOL EVALUATIONS:

Agency	Contact Person	Street	City, state	Phone
Katherine S. Wright	Katherine S. Wright LSCSW	719 Massachusetts, Ste 121	Lawrence, KS 66044	785-840-0374
Solace Counseling Services	Christy Edwards	719 Massachusetts Ste 118	Lawrence, KS 66044	785-766-6800
Heartland Clinical Consultants	Larry Huey	544 Columbia Dr., Suite 3B	Lawrence, KS 66049	785-842-7296
Alpha Recovery Center	Richard Ostrander, director	5040 Bob Billings Pkwy., Suite B	Lawrence, KS 66049	785-842-6300
Assessments/Counseling	Scott Black	2500 W. 31 st St. Ste. G	Lawrence, KS 66046	888-742-1235
DCCCA	Lisa Carter	1739 E. 23rd St.	Lawrence, KS 66046	785-330-8238
Professional Treatment Services, LLC	Duane Olberding	3205 Clinton Parkway Court	Lawrence, Kansas 66047	785-843-5483
Choices	Jeanna Allen	1012 Massachusetts, Ste. 219	Lawrence, KS 66044	888-390-3241; 816-739-5149
Alcala Counseling Services LLC*	Manny Alcala	1243 SW Topeka Blvd. Ste B	Topeka, KS 66612	785-783-7691
Heartland Regional Alcohol & Drug Assessment Center	Dalyn Schmitt	P.O. Box 1063	Mission, KS 66222-0063	800-281-0029; 913-789-0951
Connecting Pointe LLC	Leslie Sewester	1715 E. Cedar, Suite 104	Olathe, KS 66062	913-397- 0300; Fax: 913- 397-0301
E.O.U. at Eisenbarth and Associates	Paul Costigan	514 SW Washburn Ave.	Topeka, KS 66606	785-228-9800 or 877-861-7078; fax 785-232- 8304
Paramount Recovery LLC	Kendall Heiman	1040 New Hampshire St., STE 26	Lawrence, KS 66044	785-371-1455; 218-9096 (cell)

*Provides services in Spanish BUT has no Douglas County office

B. APPROVED AGENCIES FOR **DRUG** EVALUATIONS:

Agency	Contact Person	Street	City, state	Phone
A Connecting Pointe LLC		16 E 13 th St.	Lawrence, KS 66044	913-322-3784
Assessment Services		108 E Poplar	Olathe, KS 66061	913-768-9777
Heartland Clinical Consultants	Larry Huey	544 Columbia Dr., Suite 3B	Lawrence, KS 66049	785-842-7296
Alpha Recovery Center	Richard Ostrander, director	5040 Bob Billings Pkwy., Suite B	Lawrence, KS 66049	785-842-6300
Assessments/Counseling	Scott Black	2500 W. 31 st St. Ste. G	Lawrence, KS 66046	888-742-1235
DCCCA	Lisa Carter	1739 E. 23rd St.	Lawrence, KS 66046	785-330-8238
Professional Treatment Services, LLC	Duane Olberding	3205 Clinton Parkway Court	Lawrence, Kansas 66047	785-843-5483
Choices	Jeanna Allen	1012 Massachusetts, Ste. 219	Lawrence, KS 66044	888-390-3241; 816-739-5149
Substance Abuse Recovery Program		330 S.W. Oakley	Topeka, KS 66606	785-243-3448
Sunflower Alcohol Safety Project		112 S.E. 7 th St.	Topeka, KS 666603	785-232-1415
Paramount Recovery LLC	Kendall Heiman	1040 New Hampshire St., STE 26	Lawrence, KS 66044	785-371-1455; 218-9096 (cell)
Heartland Clinical Consultants	Larry Huey	5040 S.W. 28 th Ste F	Topeka, KS 66614	785-272-2266 or 2279
Adolescent Outpatient Program		330 S.W. Oakley	Topeka, KS 66606	785-233-1730

C. APPROVED AGENCIES FOR **DOMESTIC VIOLENCE** EVALUATIONS:

Agency	Contact Person	Street	City, state	Phone
Heartland Clinical Consultants	Larry Huey	5040 S.W. 28 th Ste F	Topeka, KS 66614	785-272-2266 or 2279
Family Peace Initiative of Lawrence and Topeka	Steve Halley			785-3547927
Heartland Clinical Consultants	Larry Huey	544 Columbia Dr., Suite 3B	Lawrence, KS 66049	785-842-7296
Assessment Services		108 E Poplar	Olathe, KS	913-768-9777
Assessments/Counseling	Scott Black	2500 W. 31 st St. Ste. G	Lawrence, KS 66046	888-742-1235

D. APPROVED AGENCIES FOR **FELONY DRUG** EVALUATIONS:

Agency	Contact Person	Street	City, state	Phone
AACF Therapy Center inc.		719 Massachusetts, Ste 115	Lawrence, KS 66044	785-840-0374
Dunn Counseling & Consulting, Inc.		1407 S. Santa Fe Drive	Salina, KS 67401	785-832-5528
Dunn Counseling & Consulting, Linc.		419 First Street	Baldwin City, KS 66006	785-594-9976
DCCCA	Lisa Carter	1739 E. 23rd St.	Lawrence, KS 66046	785-330-8238
Professional Treatment Services, LLC	Duane Olberding	3205 Clinton Parkway Court	Lawrence, Kansas 66047	785-843-5483
Paramount Recovery LLC	Kendall Heiman	1040 New Hampshire St., STE 26	Lawrence, KS 66044	785-371-1455; 218-9096 (cell)

DOUGLAS COUNTY DISTRICT ATTORNEY'S OFFICE

PROSECUTION POLICY FOR DOMESTIC VIOLENCE CASES

The purpose of this policy is to deal more effectively with domestic violence cases. The Douglas County District Attorney's Office will aggressively prosecute incidents of domestic violence. The goal of this policy is to protect the victim, deter the offender from committing further acts of violence, and to raise community awareness of domestic violence.

Prosecution Policy

1. The Douglas County District Attorney's Office will file charges in all cases referred to this office by law enforcement where there is sufficient evidence to prosecute. Prior to filing charges, the law enforcement officer investigating the case will obtain, when possible, a written statement from the victim.
2. Victims will be informed of their rights under the Victims Rights Constitutional Amendment including the right to be informed of and to be present at public hearings and the right to be heard at sentencing.
3. At the first appearance, the prosecutor will request that a no contact condition be placed on the applicant's bond. This condition will remain in place while the case is pending unless the victim appears, and for good reason, requests that the condition be removed.
4. Factors to consider if the applicant wishes to apply for diversion are: the victim's position regarding the case, the safety of the victim and the community, the nature and extent of the victim's injuries, the applicant's prior criminal record, the applicant's prior history of domestic abuse, the applicants willingness to comply with the terms of the program and the prognosis of the applicant's evaluation.
7. The District Attorney's Office shall have a no drop policy on domestic violence cases. Extenuating circumstances may be considered on a case-by-case basis. It will not be the District Attorney's policy to dismiss these cases upon the request of the victim of the crime.

DIVERSION FEE SCHEDULE

Diversion Application Fee	50.00	Pay to DA Custodial Fund
Diversion Fee	100.00	Pay to DA Custodial Fund

Court cost	98 or 160 or 195	Pay to Clerk of the District Court
Restitution payments	\$varies	Pay to Clerk of the District Court
KBI Lab fee	400.00	Pay to Clerk of the District Court
Attorney-court appointed	\$varies	Pay to Clerk of the District Court
Fine	\$varies	Pay to Clerk of the District Court

You must pay diversion fee up front when turning in signed diversion agreement. In addition, the court costs are to be paid to the clerk of the district court at the signing of the diversion agreement. IF payments are not made diversion agreement may be revoked and case will be returned to court docket for trial.

All other costs are to be paid to the clerk of the district court within three months of signing the diversion agreement.

**APPLICATION
DIVERSION PROGRAM**

The \$50.00 non-refundable application fee must accompany this application

You must complete every blank. If an evaluation is needed, it must be attached or the application will be returned.

Case Number _____ Div _____ Charge _____

Attorney (**Must provide address and phone #**) _____

Appointed _____

Retained _____

Next court appearance _____

Name _____ Date of Birth _____

Address _____ Phone _____

City/State _____ Zip _____

Student's home address _____ Home Phone _____

City/State/Zip _____

Sex male _____ female _____ Social Security # _____

How long have you lived in Douglas County, Kansas _____

List all states other than Kansas, where you have lived _____

Relationship to victim of this crime _____

Present employer _____ Phone _____

Address _____ City/State _____ Zip _____

Job Title _____ Length of employment _____

Salary _____

Previous employer _____ Phone _____

Address _____ City/State _____ Zip _____

Job Title _____ Length of employment _____

Salary _____

List additional previous jobs, on the back of this page

Elementary _____ Junior High _____

High School _____ Graduate _____

College _____ Highest Year/Degree Achieved _____

Medical/Physical History _____

Psychological services received: list dates and providers _____

List all offenses for which you have been arrested or charged at any time and in any jurisdiction. Include expunged offenses, juvenile offenses and alcohol related traffic offenses. This section applies even if the charges were dismissed or someone told you the charges would not be on your record. _____

State any mitigating facts concerning your current charges that you believe might excuse your actions. _____

Explain why you feel you could successfully complete the Diversion Program. **This section must be completed in the applicant's own handwriting or the application will be returned.** _____

State in detail the facts which caused charges to be filed. Please use the back of this page if necessary. **This section must be completed in the applicant's own handwriting or the application will be returned.** _____

If you were arrested, was a bond posted? Yes _____ No _____ If yes, by whom _____

If you are under 21 years of age, and the charge involved alcohol:

Where and how did you obtain the alcohol _____

Were you required to show I.D. _____ Did you use your real I.D. _____

I solemnly swear that I have read the foregoing Diversion Application and all of the information is true and correct to the best of my knowledge. I understand that giving false information will be a basis for denial of diversion or revocation of diversion.

I hereby authorize the Douglas County District Attorney's Office to release any information in the Douglas County District Attorney's file pertaining to the offense for which I am charged to any agency which is performing the psychological, drug, alcohol and/or other evaluation, any law enforcement agency, or any other such person or agencies for use in determining whether I am a suitable candidate for the Diversion program. I further authorize any person, agency or organization to release and provide, upon request, any information to the Office of the Douglas County District Attorney in consideration of my application for the Diversion Program.

I further authorize any person, agency or organization that is conducting an evaluation or treatment as a part of the Diversion Program to release information to any other person, agency or organization as needed for the evaluation or treatment process.

The \$50.00 non-refundable application fee must accompany this application

Signature of Applicant

Subscribed and sworn to before me on _____, _____.

Notary Public

IF YOUR SIGNATURE IS NOT NOTARIZED THE APPLICATION WILL BE RETURNED.