



Adult Diversion
Sedgwick County Courthouse
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DIVERSION PROGRAM - DRIVING WHILE SUSPENDED/NO INSURANCE

Pursuant to K.S.A. 22-2906 *et seq.* the District Attorney of the Eighteenth Judicial District of Kansas has established a Diversion Program for traffic offenders charged with DWS (Driving While Suspended) pursuant to K.S.A. 8-262 and Driving Without Insurance pursuant to K.S.A. 40-3104. This program has been established for offenses occurring **on or after June 15, 2020**. Persons charged with additional violations that are divertible under the Traffic Diversion Program may also be eligible for diversion.

Diversion is a privilege and not a right. There is no presumption in favor of diversion in any case, and the burden of persuasion falls upon the defendant to establish that a diversion program will serve the ends of justice and the interests of the community.

ELIGIBILITY

Defendants are eligible **only** if:

(1) they have not previously been convicted of DWS or had a DWS charge diverted or amended in the past five years in this or any other jurisdiction; (2) they do not have a Commercial Driver's License and did not at the time of the offense; (3) they have not received more than four traffic citations in the past two years; (4) they have not received more than ten traffic citations in their lifetime; (5) they have not been convicted of, or placed on diversion for, a criminal offense or serious traffic offense in the past three years; (6) the driver's license suspension was solely due to failure to comply with a citation; (7) the incident did not involve an injury accident; (8) the incident did not involve a moving violation in a construction zone or school zone; (9) the incident did not involve speeding more than 20 miles per hour over the speed limit. Charges of Reckless Driving, Attempting to Elude, Hit and Run, or Failure to Report Accident are not eligible for diversion.

PROCEDURE

The application is available on the District Attorney's website and in the Diversion Office. **For the defendant's completed application to be considered, it must be submitted to the Diversion Office with the appropriate fee within thirty (30) days of the initial court date. A non-refundable \$45.00 Application fee** shall be due at the time of application.

If the defendant is determined to be ineligible or is not approved for diversion, the defendant will be notified. If the defendant is approved for diversion, he or she will be notified and provided with a copy of his or her diversion agreement.

AGREEMENT

If the defendant is found suitable for the Diversion Program, a written Agreement for Pretrial Diversion shall be offered to the defendant for acceptance or rejection. If the offer is accepted by the defendant, all parties shall sign the written Agreement for Pretrial Diversion with the approval of the court. This agreement may contain:

- A waiver of all rights to a speedy trial, all rights to a jury trial and a stipulation as to the facts of the case
- A 12-month term of Diversion
- An agreement that the defendant shall not violate any laws of the United States or any state, or ordinances of any city, or resolutions of any county
- An agreement that the defendant obtain a Form DC-24L within 90 days of being placed on diversion **and** subsequently have his or her driver's license reinstated before the end of the supervision term
- An agreement that the defendant maintain owner's or non-owner's liability insurance and provide verification that said insurance is in effect during the term of Diversion
- Payment of all court costs, diversion costs, fees and fines within a specified period
- Participation in a driver's awareness or defensive driving program.

EFFECT

Upon the defendant entering into an Agreement for Pretrial Diversion, the criminal proceeding shall be suspended by appropriate order of the court. When the defendant successfully fulfills the terms and conditions of Diversion, the District Attorney shall move to have the criminal charges dismissed with prejudice. If the defendant fails to fulfill the terms and conditions of the Agreement for Pretrial Diversion, the District Attorney will request that the diversion be terminated. After an appropriate hearing, the Court, upon finding the defendant has failed to fulfill the terms of the Agreement shall order Diversion terminated. Criminal proceedings on the original complaint shall be resumed.