



CITY OF SALINA MUNICIPAL COURT DIVERSION INFORMATION AND APPLICATION

A diversion is a written agreement between the City Prosecutor and the defendant. During the diversion period, the prosecutor agrees to stay prosecution of the case in exchange for the defendant completing certain requirements set forth in the diversion agreement. If the defendant complies with all requirements of the diversion agreement, the prosecutor will dismiss the case at the conclusion of the diversion period. The defendant avoids having a conviction on his/her record, and the case cannot be re-filed by the prosecutor.

Most diversions are one year in length and will be supervised by the Court Services Supervisor. Unsupervised diversions will be only granted on a limited basis when special circumstances exist as determined by the City Prosecutor. An unsupervised diversion will not be granted until all fees, fines, costs, and restitution have been paid in full by the defendant. Unsupervised diversions are generally six months in length. The Court Service Coordinator will review each case and determine whether or not the defendant has successfully completed the diversion agreement. If the diversion is completed successfully, the case will be dismissed by the prosecutor. If not, the prosecutor will resume prosecution of the case in the court.

When applying for a diversion, the defendant must complete the attached application and sign it in the presence of a notary public. **The completed application must be submitted to the Salina Municipal Court with the non-refundable application fee of \$200 for DUI cases and \$125 for all other criminal or traffic cases. The defendant must also pay court costs of \$75 for criminal cases and \$55 for traffic cases.**

The defendant must attend all court appearances until the diversion agreement is signed and filed with the Municipal Court. The prosecutor will review the defendant's criminal record and review the application. The defendant will be sent a letter indicating whether the application has been granted or denied. If granted, the defendant must make arrangements to come to the City Prosecutor's Office to sign the diversion agreement.

The defendant will be asked to waive his/her rights to a speedy trial and to confront witnesses at trial. If the defendant is representing himself/herself, he/she will be asked to waive the right to an attorney. The defendant will also sign a stay order suspending the court proceedings during the diversion period. The defendant is also required to stipulate to a factual basis for any charge(s) diverted in the agreement.

The diversion agreement sets forth several conditions which must be successfully completed by the defendant. The defendant should take sufficient time to review the agreement carefully prior to signing the document. Failure to review the agreement is not a defense, if the agreement is later subject to revocation. If the City Prosecutor files a Motion to Revoke the Diversion, the Motion and Notice of Hearing will be mailed to the defendant's last known address. If the defendant fails to appear at the hearing, the prosecutor will request an arrest warrant be issued for the defendant. If the Court finds that the defendant violated the terms of the diversion agreement, the case will be tried on the stipulated facts contained in the police reports and relevant documents provided by the prosecutor to the municipal court judge.

Please direct general questions regarding diversions to the City Prosecutor's Office. While the prosecutor staff may answer general questions about the diversion program, they cannot provide you with legal advice regarding your particular case. If you have any legal questions, please consult with a licensed attorney.

**Salina City Prosecutor
255 North 10th
Salina, KS
67402-1154
(785) 826-7234**

	Domestic Battery	DUI	Misc. Criminal
Eligibility	<ul style="list-style-type: none"> No prior domestic violence diversion or conviction, prior felony conviction(s), or history of misdemeanor convictions. 	<ul style="list-style-type: none"> Must <u>not</u> hold a CDL on the date of the offense. No prior DUI conviction/diversion. Not involved in an injury accident. Did not have a breath/blood alcohol concentration higher than .25. 	<ul style="list-style-type: none"> No prior diversions, felony conviction(s) or history of misdemeanor convictions.
Record	<ul style="list-style-type: none"> Reported for five years as a prior conviction in any subsequent domestic battery case (enhances sentencing). May have implications under the federal firearm statutes. 	<ul style="list-style-type: none"> Reported as a prior conviction for sentencing purposes for sentencing purpose in any subsequent DUI case. May result in administrative action taken by the Kansas Division of Vehicles. 	
Conditions to be met	<ul style="list-style-type: none"> No violations of the law during the diversionary period. Payment of fines and court costs by the dates specified in the diversion agreement. Maintain contact with the Court Services Coordinator on a specified schedule. Obtain a Domestic Violence Assessment and follow any recommendations. Optional: Mental health evaluation, counseling, community service, no contact order, letter of apology, etc. 	<ul style="list-style-type: none"> No violations of the law during the diversionary period. Payment of fines and court costs within 60 days of entering the agreement. Maintain contact (<i>either by meeting personally or by mailing a monthly report form</i>) with the Court Service Coordinator. Obtain an alcohol evaluation at your expense. All recommendations must be complied with and completed at the time the agreement is signed. Optional: Mental health evaluation, counseling, community service, no contact order, letter of apology, etc. 	<ul style="list-style-type: none"> No violations of the law during the diversionary period. Payment of a fine and court costs within the period of time specified in the agreement. Unsupervised Diversions: Will not be granted until all fees, fines, costs and restitution have been paid in full by the defendant. Maintain contact with the Court Service Coordinator on a specified schedule. Optional: Mental health evaluation, counseling, community service, no contact order, letter of apology, etc.
Factors Considered in Granting and Denying an	<ul style="list-style-type: none"> Nature and circumstances of the crime. Cooperation of the defendant. Diversion is appropriate for the needs of the defendant. Impact of the diversion on the community and victim. Recommendations (if any) from any victims or law enforcement. Provisions for restitution (if any). Mitigating circumstances of the case. 	<ul style="list-style-type: none"> Nature and circumstances of the crime. Cooperation of the defendant. Diversion is appropriate for the needs of the defendant. Impact of the diversion on the community and victim. Recommendations (if any) from any victims or law enforcement. Provisions for restitution (if any). Mitigating circumstances of the case. First-time alcohol related offense. Diversion will not be granted: <ul style="list-style-type: none"> Previous diversion or conviction for a DUI-related offense; DUI resulted in a motor vehicle accident or collision which caused personal injury to any party (including the defendant). 	<ul style="list-style-type: none"> Nature and circumstances of the crime. Cooperation of the defendant. Diversion is appropriate for the needs of the defendant. Impact of the diversion on the community and victim. Recommendations (if any) from any victims or law enforcement. Provisions for restitution (if any). Mitigating circumstances of the case.

**CITY OF SALINA - MUNICIPAL COURT
APPLICATION FOR DIVERSION**

Type of Diversion: Criminal Domestic Battery DUI Restricted DL

PERSONAL INFORMATION:

Name: _____ Case No. _____
Address: _____
City: _____ State: _____ Zip: _____ Phone: _____
DOB: _____ Place of birth: _____ Race: _____ Sex: _____
Social Security No. _____ Driver's License No. _____

EDUCATION:

1. Have you completed high school? Yes. When and where? _____
 No. Last grade completed. _____
When and where? _____
Do you have a GED? Yes. No.
2. Have you had any vocational training? Yes. When and where? _____
 No.
3. Have you attended college?
 Yes. When, where and course of study _____
Date of graduation or expected date. _____
 No.

EMPLOYMENT: List employment history for the last ten years starting with the most recent.

<u>Employer</u>	<u>Date of Employment</u>	<u>Reason for Leaving</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

FAMILY HISTORY:

1. Are you current married? Yes. Name of spouse (maiden name) _____
 No.
2. Number of prior marriages. _____ List names of prior spouses _____

- 3 List the name, age, and address of children.

<u>Name</u>	<u>Age</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

MEDICAL HISTORY:

- 1. Have you participated in psychiatric/psychological treatment or counseling?
 Yes. Date, place and length of treatment. _____

- No.

- 2. Have you participated in treatment or counseling for alcohol abuse?
 Yes. Date, place and length of treatment. _____

- No.

- 3. Have you participated in drug treatment or counseling?
 Yes. Date, place and length of treatment. _____

- No.

LEGAL HISTORY:

- 1. Do you have an attorney representing you?
 Yes. Name and address of your attorney _____
 No. I am representing myself.

- 2. Have you ever been convicted of a crime?
 Yes. When, where, case number and charge. _____
 No.

- 3. Have you ever had a prior diversion?
 Yes. When, where, case number and charge. _____
 No.

- 4. List all prior **traffic or criminal convictions** by date and place.

<u>Date</u>	<u>Place</u>	<u>Date</u>	<u>Place</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 5. List all prior **traffic or criminal diversions** by date and place.

<u>Date</u>	<u>Place</u>	<u>Date</u>	<u>Place</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 6. Are you currently on probation or parole?
 Yes. When, where, and charge. _____
Who is the supervising officer? _____
 No.

7. Do you currently have traffic or criminal charges pending against you?
 Yes. Charge, place and case number _____

 No.
8. Do you currently owe fines to any court? Yes. List amount and court _____
 No.

DUI CASE ONLY

1. Have you ever been diverted for DUI or convicted of a DUI? Yes. No.
 2. Were you involved in an injury accident? Yes. No.
 3. Did you refuse a breath test or blood test? Yes. No.
 4. Were the results of your test greater than .25? Yes. No.
 5. On the date of your arrest, did you have a commercial driver's license (CDL)? Yes. No.

Note: If you answered "Yes" to any of these questions, you may not qualify for a diversion.

The City Prosecutor has the right to deny any diversion application. If any information in this application is false, the City Prosecutor will deny the diversion and proceed with prosecution of the case. You may also be subject to further criminal prosecution if this application contains false information. You are also required to update the City Prosecutor's Office of any new arrest or criminal/traffic charge(s) after the completion of this diversion application.

VERIFICATION:

STATE OF KANSAS)
) ss:
 COUNTY OF SALINE)

_____ (name), of lawful age, being duly sworn on his/her oath, states and alleges:
 That he/she has read this Diversion Application in full; knows the contents of the answers provided therein;
 and verifies that the information provided herein is true and accurate.

 Defendant/Applicant Signature – Sign in the presence of a Notary

STATE OF KANSAS)
) ss:
 COUNTY OF SALINE)

BE IT REMEMBERED, that on this _____ day of _____, 20____, before me the undersigned,
 a Notary Public in and for said county and state, came _____ to me personally
 known to be the same as his/her own free and voluntary act and deed for the uses and purposes therein set
 forth.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal on the day and year
 written above.

 Notary Public