



CITY OF SALINA MUNICIPAL COURT DIVERSION INFORMATION AND APPLICATION

****DUI**

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.

DUI diversions are for a period of one year and will be supervised by the Court Service Coordinator. 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 DUI 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 \$200.00 and court costs of \$58.00. If diversion is granted, the defendant must obtain a drug/alcohol evaluation from an approved provider before the diversion agreement will be filed. During the term of diversion, the defendant will be required to refrain from violating the law, pay a \$750.00 fine within sixty days of the date the diversion agreement is signed, maintain contact with the Court Service Coordinator, complete any recommendations of the drug/alcohol evaluation, pay any restitution as ordered, and complete any other conditions as contained within the diversion agreement.**

The prosecutor will review the defendant's criminal record and review the application. **Prior adult diversions, felony conviction(s), or a history of misdemeanor convictions will automatically disqualify an individual for diversion consideration. In addition, if, at the time of the offense, a diversion applicant held a CDL, was involved in an injury accident, or had a breath/blood alcohol concentration of higher than .20, diversion will be denied.** 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.

The defendant must attend all court appearances until the diversion agreement is signed and filed with the Municipal Court.

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
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