

**BARTON COUNTY DUI DIVERSION PROGRAM
GUIDELINES**

WHAT IS DIVERSION?

The DUI diversion program offered and supervised by the Barton County Attorney enables certain people to complete a performance plan rather than trying their case. If a person successfully completes all the requirements of the one-year diversion program, their DUI charge will be dismissed.

HOW DO I APPLY FOR DIVERSION?

Every person who wants to be considered for the diversion program must fill out a written application. Application forms are available in the Barton County Attorney's Office, which is located on the third floor of the Barton County Courthouse. Your completed application should be returned to the Barton County Attorney's Office.

All diversion applications must be completed and returned within 10 days of your first appearance in Court. If you plead not guilty without appearing in Court, your application must be returned within 10 days of the date the Court records show that you entered your plea.

WHO IS ELIGIBLE FOR THE DUI DIVERSION PROGRAM?

People who have not been previously convicted of DUI may apply for diversion.

However under state law, you may not participate in the DUI diversion program if one of the following statements applies to you:

1. You are currently participating in a DUI diversion program.
2. You were involved in a motor vehicle accident or collision, which resulted in personal injury or death at the time of your alleged DUI charge.

Under the Barton County Attorney's Guidelines, you will not be eligible for diversion if:

1. Upon arrest, you refused to take a blood or breath test to determine your blood alcohol content.
2. You agreed to take a blood or breath test and the results showed your blood alcohol content was .25 or more.
3. The arresting officer reports you were belligerent, insulting or uncooperative.

In addition, the Barton County Attorney's Office may consider other information in deciding whether to approve your diversion application. Some of these other considerations are your prior traffic and criminal record, the circumstances surrounding your DUI arrest, the recommendation of law enforcement agencies, and whether diversion is appropriate to your needs and the needs of the community. The Barton County Attorney makes the final decision on all diversion applications.

WHAT ARE THE DUI DIVERSION PROGRAM REQUIREMENTS?

Every person who participates in DUI Diversion must sign a diversion agreement. A person's diversion program lasts one year from the date the diversion agreement is signed.

Every person requesting DUI Diversion must complete a speedy trial waiver form provided by this office.

You must complete an alcohol evaluation after your application has been approved. The Barton County Attorney's Office will make the referral for an evaluation for you after you have returned your completed application. You and your attorney, if you have one, will be notified by mail whether you have or have not been approved for DUI Diversion. Upon receiving notification of approval, within thirty days you must undergo a substance abuse evaluation. You must submit your payment by cashier's check or money order to the facility that is performing the evaluation. This fee must be paid at the time of the scheduled evaluation. If you do not cooperate in completing the evaluation or fail to submit the evaluation fee within the specified time frame, you will no longer be eligible for diversion, and your case will be set for trial.

The following is a description of the funds you will need and when you will need them:

1. \$150.00 (ADSAP) Alcohol and Drug Evaluation Fee
 - * This fee will be paid directly to the evaluation office or agency, and the payment should be made by cash, money order, or cashier's check. Payment is due at the time of the evaluation.
2. \$750.00 Fine.
3. \$108.00 Docket Fee.
4. \$ 45.00 Standard Booking Fee.
5. \$500.00 Diversion Fee.
6. \$ 25.00 Crime Stoppers Donation
 - * Due the day you sign your diversion agreement.
7. \$ 80.00 (Approx.) Alcohol and Drug Information School
 - * Due the day of class.
8. \$ 90.00 (Appox.) DUI Victim Panel
 - * Due the day of presentation.

You must also complete Alcohol and Drug Information School (ADIS), and pay its costs on the day of the class. You will receive a letter telling you when and where the school will be.

You will also be required to attend a DUI Victim Panel and pay for its costs at the presentation. The fee is approximately \$90.00. Payment must be Cash Only. Checks and money orders are not accepted. You will also be provided with the DUI Victim Panel Guidelines and the date of the presentation.

These are the minimum requirements for all diversion participants. Individual cases may have different or additional requirements.

Everyone participating in the DUI diversion program is required to obey all state, federal and municipal laws and ordinances as a condition of diversion.

WHAT HAPPENS IF I VIOLATE THE DIVERSION AGREEMENT?

If the Barton County Attorney's Office receives information that you have violated a condition of your diversion agreement, they may request that your diversion program be revoked. When revocation is requested, you will either be summoned to appear in Court, or a bench warrant may be issued for your arrest.

After your diversion program is revoked, your original charge of DUI will be tried before a judge in Barton County District Court. The only evidence in that trial will be a statement of facts, which is included in your diversion agreement.

WHAT HAPPENS AFTER I COMPLETE THE DIVERSION PROGRAM?

When you have successfully completed the full year of your diversion program, your DUI case will be dismissed.

Be aware that your participation in DUI diversion will be listed on your Kansas traffic record. If you are convicted of another DUI offense after completing diversion, you will be sentenced as a second DUI offender.

IS DUI DIVERSION THE BEST ALTERNATIVE FOR ME?

Only you can decide if you should participate in DUI diversion. The Barton County Attorney's Office runs the program, and members of the office are glad to answer questions about diversion; however the County Attorney's Office cannot advise you whether or not you should apply for diversion.

You may wish to get in touch with an attorney of your own choosing to review your DUI case and advise you about DUI diversion.

OFFICE OF THE COUNTY ATTORNEY

Amy J. Mellor
Barton County Attorney

Revised 12/13/17

APPLICATION FOR PRETRIAL DIVERSION PROGRAM – DUI ONLY

(All answers must be complete – After completing application, please return it to the County Attorney’s Office.)

1. Name: _____ Phone No. _____

Address: _____
(Street) (City) (State) (Zip)

Length of residence at present address: _____

What Language do you speak (English, Spanish, etc.) _____

2. Age: _____ 3. Date of birth: _____ 4. Sex: _____

5. Place of birth: _____

6. Social Security Number: _____ 7. Race: _____

8. Marital Status: _____

Spouse Name: _____ Spouse Age: _____

Spouse Employment: _____

9. Number of dependents: _____

NAMES	AGES
_____	_____
_____	_____
_____	_____
_____	_____

10. Driver’s License No. _____ State of issuance: _____

11. Vocational Training: Yes _____ No _____ Type: _____

12. Military Service: Yes _____ No _____ Branch: _____

13. Defense Attorney:

Name: _____ Telephone: _____

Address: _____

14. Present Employment:

Name: _____ Telephone: _____

Address: _____

Date Employed: _____ Occupation: _____

Salary: _____

(Begin with Last Previous Employer)

15. Employment History:

Name: _____ Telephone: _____

Address: _____

Date Employed: _____ Occupation: _____

Reason Left: _____

Name: _____ Telephone: _____

Address: _____

Date Employed: _____ Occupation: _____

Reason Left: _____

Name: _____ Telephone: _____

Address: _____

Date Employed: _____ Occupation: _____

Reason Left: _____

List employment for past three employers. If you need additional space, use a blank sheet of paper.

16. Present Income:

Defendant's Employment: \$ _____ per month.

Spouse's Employment \$ _____ per month.

Unemployment Compensation \$ _____ per month.

Welfare: \$ _____ per month.

Other: \$ _____ per month.

Source: _____.

17. Prior traffic offense record, including previous DUI convictions in other states:

18. Prior criminal offense convictions:

19. State the name of your insurance company, your local agent, his/her phone number and your policy number:

20. Have you ever attended alcohol treatment or counseling? _____
If yes, state when, where, and the reason for attendance:

21. I understand that by signing the agreement I waive rights to a formal arraignment, speedy trial or jury trial.

I understand that my application for diversion does not have to be accepted by the Barton County Attorney. I understand that prior to offering diversion, the County Attorney's Office may have to investigate the circumstances of this case, as well as any prior criminal or traffic record I may have. Additionally, the diversion process may involve an evaluation and the processing of an agreement for diversion which would be signed by myself and a representative from the Barton County Attorney's office. Knowing and understanding this, and wishing to continue the diversion application process, I waive any right to a speedy trial, and I request and consider that any delay or continuance in a trial in my case, due to my request for pretrial diversion, be considered as being undertaken at my request and not at the request or need of the State of Kansas.

I hereby apply for status as a participant in the diversion program and request that the County Attorney temporarily delay trial against me in order to permit consideration of this application. I understand that the final decision to commence criminal proceedings or to defer prosecuting my case rests entirely with the County Attorney.

I authorize the County Attorney to conduct an investigation to determine suitability for this program. I understand that any information by or authorized by me to be furnished in connection with this investigation will be kept confidential except to my attorney.

A false answer to any question in this application may be reason for recommendation against placement into this program or removal after placement in the program, in which case, the County Attorney will resume prosecution on the original charge.

Date

Applicant's Signature

I authorize the County Attorney's Office to conduct a background check of my past employment record and I authorize my present and past employers to furnish the County Attorney's Office with any information they request. I further authorize the County Attorney's Office to contact my liability insurance carrier and authorize them to release information.

Date

Applicant's Signature