

BROWN COUNTY DIVERSION POLICY

The Brown County Attorney's Office offers diversion on certain traffic and criminal offenses pursuant to Kansas Law as described below. A copy of this policy is posted on the Brown County Attorney's Office webpage:

<http://ks-brown.manatron.com/ELECTEDOFFICIALS/CountyAttorney/tabid/9127/Default.aspx>

If eligible and interested in diversion, you may contact Marcy Gruber of my office at 785-740-7401 or mgruber@brcoatty.com for a diversion conference whereby she will meet with you and outline the procedures for diversion in Brown County Kansas.

I. DUI DIVERSION

A. Prerequisites for eligibility.

1. First DUI.
2. Tested out at .20 or below.
3. No injury accident involved.
4. If the DUI case includes a speeding ticket of 78 mph and below, the speeding ticket will be included in the diversion. If the speeding ticket is 79 mph and above, the ticket will not be included in the diversion agreement.
5. Officer input considered.
6. Favorable recommendation by prosecuting attorney.
7. Diversion Agreement should be return to the prosecuting attorney's office within thirty (30) days from the date of the cover letter.
8. Diversion will not be offered in cases where a defendant refused a BAC test when requested, except under extenuating circumstances as determined by the County Attorney's office with input from the arresting officer.

B. Terms of diversion.

1. \$300.00 non-refundable diversion fee payable upon entry of diversion.
2. If the Preliminary Breath Test is refused, but other tests and/or intoxilizer were taken a \$350.00 non-refundable diversion fee is required.
3. If the DUI case includes an open container a \$350.00 non-refundable diversion fee is required.
4. \$108.00 (TR) \$158.00(CR) court costs payable upon filing of the diversion.
5. \$750.00 fine payable within ninety days from entry of diversion.
6. \$150.00 alcohol evaluation fee payable within thirty days from entry of diversion.
7. \$45.00 booking fee payable within ninety days from entry of diversion.
8. \$400.00 KBI Lab fee payable within one-hundred twenty days from

entry of diversion agreement (only in those cases where blood is drawn)

9. Alcohol evaluation shall be completed within thirty days of entry of diversion agreement.
10. Any and all recommendations of said alcohol evaluation shall be followed thereafter as long as recommended.
11. Six month diversion period without any violations of a statute, ordinance, a statute, ordinance, etc.

II. SPEEDING DIVERSION

- A. Prerequisites for eligibility.
 1. No prior tickets within the last 12 months.
 2. 55 mile per hour zone--diversion granted up to 78 miles per hour.
 3. 50 mile per hour zone and below--up to 15 miles per hour over the speed limit.
 4. 65 mile per hour zone--diversion granted up to 80 miles per hour.
 5. Diversion Agreement should be return to the prosecuting attorney's office within thirty (30) days from the date of the cover letter.
- B. Terms of Diversion
 1. \$100.00 diversion fee payable upon entry of diversion agreement.
 2. Assessed fine payable upon entry of diversion agreement.
 3. \$108.00 court costs payable upon entry of diversion agreement, plus fine amount.
 4. Three month diversion period without any traffic infractions or other violations of the law.
 5. Within discretion of prosecuting attorney.

III. LEAVING THE SCENE OF ACCIDENT/FAILURE TO REPORT

- A. Prerequisites for eligibility.
 1. No prior tickets within the last 12 months.
 2. Must be a non-injury accident.
 3. Diversion Agreement should be return to the prosecuting attorney's office within thirty (30) days from the date of the cover letter.
- B. Terms of Diversion
 1. \$200.00 diversion fee payable upon entry of diversion agreement.
 3. \$108.00 court costs payable within thirty days of diversion agreement, plus fine amount.
 4. Three month diversion period without any traffic infractions or other violations of the law.

5. Within discretion of prosecuting attorney.

VI. MARIJUANA DIVERSION

- A. Prerequisites for eligibility.
 1. Must be a first offense
 2. Officer input considered.
 3. Favorable recommendation by prosecuting attorney.
 4. Diversion Agreement should be return to the prosecuting attorney's office within thirty (30) days from the date of the cover letter.

- B. Terms of Diversion
 1. Diversion fee payable upon entry of diversion agreement as follows:
 - a. if the amount possessed is 7 grams or less, diversion fee is \$300.00
 - b. if the amount possessed over 7 grams but less than 18 grams, diversion fee is \$400.00
 - c. if the amount possessed is 18 grams or more, diversion fee is \$500.00
 2. \$158.00 (CR) \$56.00 (JV) Court cost payable upon entry of diversion agreement.
 3. If defendant is arrested, a \$45.00 Booking fee cost payable upon entry of diversion
 4. \$150.00 drug evaluation fee payable within thirty days from entry of diversion. If the defendant resides in a state where recreation or medical marijuana has been legalized, defendant must provide proof of residency and/or a copy of their medical card.
 5. If evidence is processed by the KBI Lab, a \$400.00 KBI Lab fee payable within one-hundred twenty days from entry of diversion agreement
 6. Six month diversion period without any Criminal/traffic infractions or other violations of the law.
 7. Within discretion of prosecuting attorney.

V. BAD CHECK

- A. Prerequisites for eligibility.
 1. No prior convictions.

- B. Terms.
 1. \$158.00 Court Cost payable upon entry of diversion agreement.
 2. \$100.00 Diversion fee
 3. Restitution must be paid upon entry of diversion agreement.
 4. Diversion Agreement should be return to the prosecuting attorney's office within thirty (30) days from the date of the cover letter.

VI. MINOR IN POSSESSION

- A. No previous tickets in the last 12 months
- B. Final approval by the County Attorney
- C. Diversion Fee \$200 plus court costs and fines.

A. Prerequisites for eligibility.

- 1. No prior tickets within the last 12 months.
- 2. Diversion Agreement should be return to the prosecuting attorney's office within thirty (30) days from the date of the cover letter.

B. Terms of Diversion

- 1. \$200.00 diversion fee payable upon entry of diversion agreement.
- 2. Assessed fine payable within thirty days of diversion agreement.
- 3. \$56.00 court costs payable within thirty days of diversion agreement.
- 4. Three month diversion period without any traffic infractions or other violations of the law.
- 5. Within discretion of prosecuting attorney.

****NO DIVERSIONS WILL BE OFFERED ON PERSON MISDEMEANORS OR FELONY CASES**