

## **PRETRIAL DUI DIVERSION INFORMATION SHEET**

You have been charged with driving under the influence of alcohol and/or drugs. As a first time offender the Independence City Attorney will consider your application for entry into the Independence Diversion Program only if you have ***NOT***:

- a. Previously participated in Diversion of an alcohol related offense.
- b. Previously been convicted of or pleaded nolo contendere to a violation of an alcohol related offense in this state.
- c. At the time of the alleged alcohol related offense you were not involved in a motor vehicle accident or collision resulting in personal injury or death.
- d. At the time of the alleged alcohol related offense your blood/alcohol concentration (BAC) did not test .20% or higher.

Diversion means that the City will postpone for a period not to exceed one year any criminal proceedings (including trial) relating to the DUI charge against you. In order to apply for Diversion, you must submit an application form (attached).

The Diversion applicant must contact the Diversion Program Coordinator and schedule a time for the required interview and alcohol/drug evaluation.

If you are accepted into the Diversion Program, you will be required to PAY TO THE CLERK OF THE MUNICIPAL COURT OF INDEPENDENCE:

- |    |  |          |
|----|--|----------|
| 1. | Diversion Fee:                                 | \$100.00 |
| 2. | Court Costs:                                   | \$ 74.00 |
| 3. | Fine:  | \$750.00 |
| 4. | KBI Lab Fees (if applicable):                  | \$400.00 |
| 5. | Court Appointed Attorney Fees (if applicable): | \$200.00 |

In addition to the above you shall:

1. Obtain and pay for a Drug/Alcohol Evaluation (ADSAP) prior to a diversion being approved by the Independence City Attorney.
2. Attend and satisfactorily complete any ADSAP recommendations including but not limited to the Four County ADSAP Alcohol/Drug Information School. A fee of \$100 must be paid to the school program
3. Agree to waive your constitutional rights to a speedy trial and a jury trial on the charges against you.

4. Agree to abide by whatever conditions the City Attorney feels appropriate in your case. These may include:
  - a. Paying restitution to persons injured or damaged as a result of your actions.
  - b. Attending counseling sessions.
  - c. Maintaining gainful employment.
  - d. Not violating the law.
  - e. Not committing any additional alcohol related offenses.

If you are accepted for Diversion, you will be required to sign an agreement which sets out what you must do in order to complete the program.

The Diversion Agreement shall include a stipulation, agreed to by yourself and the City Attorney of the facts upon which the charge is based and a provision that if you fail to fulfill the terms of the specific Diversion Agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the Stipulation of Facts relating to the complaint.

If you successfully complete the Diversion Program, the City Attorney will have the DUI charge against you dismissed with prejudice. If you fail to live up to the terms of the Diversion Agreement, the City Attorney will resume the criminal proceedings against you as provided for by K.S.A. 12-4416 and amendments thereto.

**The Independence City Attorney is:**

Daniel M. Reynolds

**Drug/Alcohol (ADSAP) Evaluation Agencies:**

Four County Mental Health Center  
3751 West Main  
Independence, Kansas 67301  
Phone 620-331-1748

Four County Mental Health Center  
1601 West 4<sup>th</sup>  
Coffeyville, Kansas 67337  
Phone 620-251-8180

**ANY EVALUATION BY ANY OTHER AGENCY OTHER THAN THOSE LISTED ABOVE MUST BE APPROVED IN WRITING BY THE MONTGOMERY COUNTY ATTORNEY PRIOR TO OBTAINING THE EVALUATION.**