

**OFFICE OF THE BUTLER COUNTY ATTORNEY  
DIVERSION PROGRAM FOR DOMESTIC VIOLENCE CASES**

**IN GENERAL**

The Butler County Attorney has established a Diversion Program for domestic violence cases. The County Attorney's decision to grant diversion will be based upon the following criteria as well as the other statutory factors, including whether diversion will be in the interests of justice and of benefit to the defendant and the community.

The burden is on the defendant to initiate the application process and thereafter follow proper procedures. If you are granted diversion and successfully complete the same, the diverted charges will be dismissed. **IF YOU HAVE RETAINED COUNSEL OR COURT APPOINTED COUNSEL, PLEASE TURN IN THE APPLICATION TO YOUR ATTORNEY.**

**A. PURPOSE AND INTENT:**

1. Give spouses and significant others an opportunity through counseling and intervention an opportunity to modify their behavior and keep the family unit in tact in the interim.
2. Provide a non-adversarial process outside the courtroom to address family violence issues.
3. Provide victims assistance and intervention with the abuser without necessarily causing him/her to be jailed, thereby causing more victims to stay with the process, thus resulting in fewer dismissals due to lack of cooperation based on financial concerns, etc.
4. Decrease court's docket.
5. Expedite the treatment process by eliminating the trial waiting period.

**B. CRITERIA FOR ELIGIBILITY:**

All defendants applying for diversion under this program shall be eligible **unless** one or more of the following factors exists.

1. Defendant has been convicted of a prior domestic violence offense.
2. History of repeated or long-term domestic abuse reported or unreported which did not result in conviction.
3. Defendant has a prior felony conviction of a crime against a person.
4. The current crime in which the defendant is seeking diversion is a felony.
5. Defendant fails to submit the diversion application in a timely manner, or the defendant provides false or misleading information in the diversion application.
6. Diversion is not in the best interest of the community.

**NOTE:** If one or more of the above factors exist, diversion may and will generally be declined. However, the County Attorney's office reserves to right to grant diversion (unless prohibited by statute) even where the criteria for eligibility are not met. The County Attorney must approve such variance decisions.

**C. PROCEDURE:**

1. **Submit the attached diversion application**, completely filled out, dated and signed.

2. Following receipt of the diversion application, the County Attorney's Diversion Coordinator will receive the file from the secretary. The Diversion Coordinator will then review the file and advise the prosecuting attorney whether the applicant meets diversion eligibility criteria. This review process should not take more than 2-3 days.

3. If the defendant is accepted for diversion, the agreement will be prepared by the Diversion Coordinator and signed by the prosecutor. A date and time will be scheduled for the defendant and attorney (if any) to come to the CA's office and sign the agreement. This **diversion conference** will be with the CA Diversion Coordinator.

The diversion conference will generally be the same date and time as already scheduled for the defendant's next court appearance. However, instead of going to court, the defendant and counsel will come to the CA office for the conference. Defendant must pay a **\$200.00 diversion fee** at time of signing.

4. Once the defendant and his/her counsel (if any) have reviewed and signed the diversion agreement, the CA Diversion Coordinator will file the agreement and give copies to the defendant. The Diversion Coordinator will send a file-stamped copy of the agreement to the Kansas Bureau of Investigation (KBI).

5. Thereafter, it is the responsibility of the defendant to ensure that all conditions of the agreement are fulfilled in a timely manner. The defendant must report in person to the CA Diversion Coordinator at the date and time set out in the agreement for the **compliance conference**.

6. At the **compliance conference**, the CA Diversion Coordinator will go through whatever paperwork the defendant provides. If all requirements of the agreement were completed in a timely manner, the Diversion Coordinator will prepare a **journal entry of dismissal with prejudice**. Diversion Coordinator will send a file-stamped copy of the journal entry of dismissal to the KBI.

7. If the defendant fails to complete one or more of the requirements of the diversion agreement in a timely manner, the prosecutor shall seek revocation of the diversion agreement unless a decision is made to modify the terms of the agreement to allow the defendant more time to comply. If the decision is to seek revocation, file will be transferred back to the secretary.

**D. CONDITIONS/ REQUIREMENTS:**

1. All court costs, filing fee, witness fees (if any), court-appointed attorney fees (if any), etc.

2. A diversion fee of **\$200.00** payable when agreement signed.

3. Complete any and all other special conditions of the diversion agreement, including that the defendant not violate any laws during the pendency of the diversion.

4. Stipulate to certain facts upon which the charges were based and upon which the case will be tried if the diversion agreement is for some reason later set aside.

5. The length of the diversion shall be 12 months unless extended by agreement of the parties.