

### **Rule 13: Diversion Practice**

- 13.1** Acceptance in the diversion program is presumed by the Court to be at the sole discretion of the Prosecution Division of the City Attorney's Office. Procedural information and forms are available in the City Attorney's Office. Copies shall also be posted in the lobby of the Topeka Municipal Court.
- 13.2** Strict adherence to the time limits established by the policies of the City Attorney's Office for filing such diversion applications will be required by the Court. The Court is not required to permit continuances of hearings or trials to allow the accused to qualify for diversion or to prepare or submit a diversion application out-of-time.
- 13.3** The Judge, in his/her sound discretion and subject to provisions of applicable law, may refuse to allow the parties to apply for, or enter into, a diversion program.
- 13.4** It is the duty of any defendant who applies for or who is granted diversion to keep the Municipal Court and the City Attorney's Office advised of current address, employment and telephone numbers. By submitting an application for diversion the defendant agrees to accept service by mail at such defendant's last known address of any hearings or other court proceedings in such case, including any motion by the prosecution to terminate the diversion previously granted.
- 13.5** Upon the defendant entering into a pretrial Diversion Agreement, the criminal proceeding shall be suspended by appropriate order of the Court. When the defendant successfully fulfills the terms and conditions of diversion, the City Prosecutor shall move to have the criminal charges dismissed with prejudice. If the Defendant fails to fulfill the terms and conditions of the Diversion Agreement, the City Prosecutor shall request that the diversion be terminated. After an appropriate hearing, the Court, upon finding the defendant has failed to fulfill the terms of the Diversion Agreement, shall order diversion terminated. There will be no other proceedings except a trial to the court on stipulated facts, as set forth in the Diversion Agreement.