

REFUSAL DIVERSION POLICY FOR FIRST TIME OFFENDERS

Petitioner will be eligible for diversion if:

- Clean record
 - No alcohol related contacts on their driving record in the past 10 years – NO exceptions
 - Examples include, but are not limited to
 - No DWI
 - No Excessive BAC
 - No Administrative Zero Tolerance Suspension
 - No Chemical Refusal Revocation
 - No Administrative Alcohol Suspension
 - No Administrative Alcohol Revocation
 - No more than 2 moving violations in the past 10 years – speeding tickets are left to prosecutor's discretion
 - Additionally, if Petitioner has a driver's license from another state, that record cannot have any alcohol related contacts
 - If Petitioner is eligible based on their driving record, our office will run a Criminal History on Petitioner
 - No alcohol convictions, no pleas of guilty to alcohol offenses (i.e. SIS)
 - No convictions for dangerous crimes
- Incident in question has NO aggravating circumstances
 - Examples include, but are not limited to
 - No accident
 - No abusive behavior to police officers or witnesses
 - No children in the car
 - No excessive drunkenness
 - No eluding or fleeing
 - No profanity or fighting

If Petitioner is eligible, must do 3 things in order to obtain a judgment in their favor:

- Must provide proof of plea to the underlying DUI
 - Can be an SIS, unless Petitioner is a CDL holder, then plea must be an SES
 - Proof must be from the Court of plea
 - A plea to a reduced charge will not be accepted
- Must provide proof from treatment provider that Petitioner has completed SATOP
- Must provide proof of current insurance

- ***All offers of diversion are subject to the prosecutor's discretion. Prosecutor may, in any case, impose more requirements than those listed above (i.e. community service, anger management counseling, etc.) depending upon the circumstances of the case