

INSTRUCTIONS FOR THE INFRACTION DEFERRAL PROGRAM

1. In order to apply to be part of the Deferral Program of St. Joseph County, you must complete the **DEFENDANT'S PERSONAL INFORMATION** portion of the INFRACTION DEFERRAL AGREEMENT form. Please be certain that all the information is legible. Please be sure to sign the form.
2. You must read and understand the [ACKNOWLEDGMENT OF RIGHTS](#) form.
3. The signed Agreement must be returned to:

**Office of the Prosecuting Attorney
Attn: Infraction Deferral Coordinator
10th Floor, County City Building,
227 W. Jefferson Blvd.
South Bend, IN 46601**

Fax: (574) 235-9761

E-mail: deferral@stjoepros.org

4. You will be notified of your acceptance by mail. If you are accepted into the Infraction Deferral Program, you will receive a signed copy of the Agreement as filed with the Court along with further instructions. You must then pay the User's Fee and Court Costs by the specified date on your Agreement.

The business hours of the Office of the Prosecuting Attorney are 8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays.

If there are any questions or concerns, please contact the Infraction Deferral Coordinator at (574) 245-6645.

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)
)
STATE OF INDIANA)
 V.)
)
)
_____)

IN THE ST. JOSEPH SUPERIOR COURT
TRAFFIC & MISDEMEANOR DIVISION

CAUSE NO.
CITATION NO.

INFRACTION DEFERRAL AGREEMENT

Comes now, the State of Indiana by Kenneth P. Cotter, Prosecuting Attorney for the 60th Judicial Circuit, and the Defendant, who submits the following agreement pursuant to I.C. 34-28-5-1:

I. The State agrees to:

1. Withhold prosecution of the charge(s) herein so long as the Defendant complies with the terms of the Agreement.
2. Dismiss the traffic ticket on the _____ of _____, _____, if you commit no moving violation within six (6) months from the date that this Agreement is filed with the Court.

II. The Defendant agrees to:

1. Commit no moving violations for a period of (six) 6 months from the date of that this Agreement is filed with the Court.
2. Pay \$_____ by the _____ of _____, _____ to the Clerk of the Courts. Payment does not go to the Office of the Prosecutor.

The Defendant acknowledges that failure to comply with any section of this agreement may result in the Prosecuting Attorney immediately setting this case on the court calendar. The Defendant also understands that this will result in the forfeiture of fees paid.

DEFENDANT'S PERSONAL INFORMATION	
Print Full Name:	_____
Street Address:	_____
City, State, Zip Code	_____
Telephone: _____	E-mail: _____
<u>Signature(s) must be in ink</u>	
Defendant's signature:	_____
Parent's/ Guardian's signature, if a minor:	_____

Approved and accepted by Kenneth P. Cotter, Prosecuting Attorney

BY: _____ BY: _____
Deferral Program Coordinator

SIGN SECTION # 1 BEFORE YOU GO IN FRONT OF THE JUDGE.

SECTION # 1 I KNOW AND UNDERSTAND MY RIGHTS

I read and understand English and have carefully read this paper, or I have had the information explained to me. I am not under the influence of drugs or alcohol or any disability which keeps me from understanding my rights. I know and understand my rights in court.

Date Signature

SECTION # 2

I UNDERSTAND MY RIGHT TO HAVE OR REFUSE A LAWYER

I understand that I have the right to a lawyer and the right to get time to talk to one. I understand that if I can't afford to hire a lawyer and am charged with a misdemeanor, a public defender could be appointed for me at little or no charge. I understand that I have the right to represent myself. I understand that an attorney is usually more experienced in plea negotiations and better able to identify and evaluate any potential defenses and evidentiary or procedural problems with the prosecutor's case.

I will: _____ Hire a Lawyer _____ Represent Myself _____ Ask for a Public Defender

Date Signature

SECTION # 3A I WANT TO PLEAD GUILTY (MISDEMEANOR)

I am pleading guilty. I understand that the Judge will not accept a guilty plea from anyone who claims to be innocent. I do not claim to be innocent. I understand the charge or charges against me and the possible punishment. The essential facts in the charge against me are true. No promises, force or threats were made to cause me to plead guilty. I freely and voluntarily admit my guilt. If there is a plea agreement, which is an agreement between a prosecuting attorney and me concerning the disposition of the charges, and the Court accepts the plea, I understand the Court is bound by the terms of the plea agreement. I understand that, if I am not a United States citizen, a plea of guilty could affect my status and ability to stay in the United States. I understand that, if I am not a United States citizen, I have the right to have my arrest/detention/criminal prosecution. I have either exercised this right and am satisfied that my consulate has been notified or I decline to exercise this right.

Date Signature

SECTION # 3B I WANT TO PLEAD NO CONTEST (TRAFFIC OR ORDINANCE VIOLATION)

I am pleading no contest. I understand the charge or charges against me and the possible punishment. I freely and voluntarily enter my plea of no contest.

Date Signature

PLEA AGREEMENT IS: _____

Defendant's Initial Prosecutor's Initial

**ST. JOSEPH SUPERIOR COURT
TRAFFIC AND MISDEMEANOR DIVISION**

Revised 2-9-11

YOUR RIGHTS AND RESPONSIBILITIES IN COURT

WHY ARE YOU IN COURT?

You have been charged with an offense, either a misdemeanor or an infraction or an ordinance violation and you should be aware of your rights, the procedures in court and the possible penalties. You will receive a copy of the charge in court. For most traffic offenses and ordinance violations the ticket is the written charge and has been given to you by the officer.

NATURE OF THE OFFENSE:

Misdemeanors are crimes and carry jail time as a possible penalty. Infractions and ordinance violations are civil cases and do not carry jail time. All charges carry monetary fines and court costs.

POSSIBLE PENALTIES UPON A FINDING OF GUILT: MISDEMEANORS

CLASS	JAIL		FINE	
	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
"A"	0	365 Days	\$0	\$5,000
"B"	0	180 Days	\$0	\$1,000
"C"	0	60 Days	\$0	\$ 500

INFRACTIONS AND ORDINANCE VIOLATIONS

CLASS	FINE	
	MINIMUM	MAXIMUM
"A" INFRACTION	\$0	\$10,000
"B" INFRACTION	\$0	\$ 1,000
"C" INFRACTION	\$0	\$ 500
"D" INFRACTION	\$0	\$ 25
CITY/COUNTY ORDINANCE	\$0	\$ 2,500

MANDATORY MINIMUM SENTENCES

- * OPERATING VEHICLE WHILE INTOXICATED WITH ONE PRIOR CONVICTION FOR OWI 5 DAYS JAIL OR 180 HRS. COMMUNITY SERVICE
- * OPERATING VEHICLE WHILE INTOXICATED WITH TWO PRIOR CONVICTIONS FOR OWI 10 DAYS JAIL OR 360 HRS. COMMUNITY SERVICE

OTHER POSSIBLE PENALTIES:

A person convicted of a crime of domestic violence, as defined under Indiana Code, will lose the right to possess a firearm, possession of a firearm or ammunition may constitute a separate crime, parenting time with minor children may be restricted, and other legal penalties may be applicable and should be discussed with your attorney.

If you are convicted of a moving traffic offense (at trial, by plea of no contest, or by admission or guilty plea) a notice of the conviction will be sent to the motor vehicle commissioner of the state where you received your driver's license and be made a part of your permanent record, and will add points to your record. A conviction for any traffic

offense may result in suspension of your driving license and may increase your insurance costs.

If you are convicted of some traffic charges your license will be suspended. In an OWI your license maybe suspended for up to 180 days at the time of your initial appearance.

OFFENSE	LICENSE SUSPENSIONS	
	MINIMUM	MAXIMUM
OPERATING VEHICLE WHILE INTOXICATED	90 DAYS	2 YEARS
OPERATING VEHICLE WITH .08% OR MORE BY WEIGHT OF ALCOHOL IN BLOOD * *	90 DAYS	2 YEARS
OPERATING A VEHICLE WITH SCHEDULE I OR II CONTROLLED SUBSTANCE IN THE BODY	90 DAYS	2 YEARS

(* * If first offense and there was no refusal to take chemical test the court may issue a 180 day probationary license after you have been suspended for 30 days.)

DRIVING WHILE SUSPENDED ORIGINAL SUSPENSION IS EXTENDED

RECKLESS DRIVING WITH ACCIDENT	30 DAYS	1 YEAR
CRIMINAL RECKLESSNESS WITH MOTOR VEHICLE	60 DAYS	1 YEAR
CRIMINAL MISCHIEF WITH MOTOR VEHICLE	60 DAYS	1 YEAR
OBSTRUCTING TRAFFIC WITH MOTOR VEHICLE	60 DAYS	1 YEAR
VIOLATING TERMS OF PROBATIONARY LICENSE	0 DAYS	1 YEAR

REFUSAL TO SUBMIT TO CHEMICAL TEST ONE (1) YEAR IF YOU ARE NOT A UNITED STATES CITIZEN AND YOU ARE CONVICTED OF A CRIME, YOUR STATUS AND ABILITY TO STAY IN THE UNITED STATES COULD BE AFFECTED.

PRIOR CONVICTIONS:

In all cases, if you have prior convictions, the Judge may increase your punishment. In some cases, a conviction may have other serious consequences. If you are on parole, probation, withheld sentence, on bail, or not a U.S. citizen you should ask for a continuance before entering a plea and talk to a lawyer.

If you have a number of prior convictions for certain traffic offenses within the last ten (10) years, you may be considered an Habitual Violator of Traffic Laws. Convictions for three (3) misdemeanor traffic offenses within the 10 year period will result in a ten (10) year suspension, while convictions for ten (10) moving violations (at least one of which must be a misdemeanor or felony) will result in a five (5) year suspension.

NON UNITED STATES CITIZENS:

I understand that, if I am not a United States citizen , you have the right to have your consulate notified of your arrest/detention/criminal prosecution. To exercise this right, you should inform your defense attorney who can alert the appropriate authorities. A plea or finding of guilty could affect your status and ability to stay in the United States.

APPEARANCE IN COURT:

The first time in Court is the initial appearance. You have received noticed of the date and time either by a) summons; b) written reminder when you posted bond after an arrest, or c) written reminder when you booked your ticket in for a court date. The Judge will enter a plea of not guilty at the initial appearance. After 10 days, it will be formal plea of not guilty unless you enter a different plea. You will be given time to get a lawyer. As your case progresses you will be informed of any additional court dates. YOU MUST APPEAR ON THESE DATES. IF YOU FAIL TO APPEAR YOU MAY LOSE ANY BOND MONEY POSTED AND A BENCH WARRANT FOR YOUR ARREST WILL BE ISSUED.

LAWYER:

- A) You have the right to a lawyer. If you plan to hire one, you must do so within two (2) weeks after your first time in court. There are deadlines for raising issues and defenses which may be lost if the deadline is missed.
- B) If you are charged with a Misdemeanor and can't afford a lawyer, a Public Defender may be appointed for you at little or no cost.
- C) If you want to be your own lawyer, tell the judge. In misdemeanor cases you will have to sign a waiver of right to an attorney and acknowledgment of the dangers of self-representation form. It is dangerous and almost always unwise to represent yourself in a criminal proceeding. An attorney is usually more experienced in plea negotiations and better able to identify and evaluate any potential defenses and evidentiary or procedural problems with the prosecutor's case.

PLEA OF NOT GUILTY – RIGHT TO TRIAL

If you plead not guilty to a misdemeanor or deny infraction or ordinance violation, you have a right to a public and speedy trial before a judge or jury.

To obtain a jury trial you must demand one, in writing, at least 10 days before your scheduled trial, but you should do so when the judge sets your trial. Failure to demand a trial by jury by this rule shall constitute a waiver of your right to trial by jury.

When you plead not guilty to a crime or deny a civil violation, the State must prove the charge at trial. For crimes, you are presumed innocent and the State must prove you guilty beyond a reasonable doubt. You cannot be forced to testify at your trial. For civil violations, the State can prove the offense by showing more convincing evidence and you can be required to testify.

You have the right to see, hear, and question all the witnesses against you. You have the right to require witnesses to come to trial to testify on your behalf, by having subpoenas issued to your witnesses and you have the right to testify on your behalf.

RIGHT TO APPEAL:

If you are found guilty at trial, or found to have committed an infraction or ordinance violation, you may appeal your conviction to the Indiana Court of Appeals or the Indiana Supreme Court.

PLEA OF GUILTY OR NO CONTEST

If you plead guilty, you are admitting that the charge against you is true and you are giving up your right to make the State prove the charge at trial. The judge will impose a penalty based upon the type of charge and your background.

A plea of no contest may be entered if you do not dispute an infraction or ordinance violation. It is neither an admission or denial of the charge but may result in civil fines, court costs and Bureau of Motor Vehicle penalties.