

77-2-9 Offenses ineligible for diversion.

- (1) Except as provided in Subsection (2), diversion may not be granted by a magistrate for:
- (a) a capital felony;
 - (b) a felony in the first degree;
 - (c) any case involving a sexual offense against a victim who is under the age of 14;
 - (d) any motor vehicle related offense involving alcohol or drugs;
 - (e) any case involving using a motor vehicle in the commission of a felony;
 - (f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended license;
 - (g) any case involving operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of:
 - (i) manslaughter under Section 76-5-205; or
 - (ii) negligent homicide under Section 76-5-206; or
 - (h) a crime of domestic violence as defined in Section 77-36-1.
- (2) When a person under the age of 16 is alleged to have committed any violation of Title 76, Chapter 5, Part 4, Sexual Offenses, the court may enter a diversion in the matter if the court enters on the record its findings that:
- (a) the person did not use coercion or force;
 - (b) there is no more than two years' difference between the ages of the participants; and
 - (c) it would be in the best interest of the person to grant diversion.

Amended by Chapter 146, 2009 General Session