

1 ENGROSSED HOUSE  
2 BILL NO. 2902

By: Loring and Sherrer of the  
House

3 and

4 David of the Senate  
5  
6  
7

8 An Act relating to public health and safety;  
9 authorizing district attorneys to create a Drug  
10 Possession Diversion Program; providing for referrals  
11 to the program; providing factors to be considered in  
12 referring cases to the program; allowing district  
13 attorneys to enter into certain written agreements;  
14 requiring participants to pay fees; providing for the  
15 deposit of fees into certain fund; directing fees be  
16 used for certain purposes; requiring certain records  
17 be kept and audited; requiring supervision;  
18 authorizing the filing of criminal charges for  
19 noncompliance; allowing staff of district attorney to  
20 perform duties related to program; directing district  
21 attorneys to prepare and submit certain report;  
22 requiring publication of report by date certain;  
23 providing for distribution of report; directing  
24 district attorneys to submit certain information to  
District Attorneys Council; requiring inclusion of  
certain information in report; providing for  
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2-901 of Title 63, unless there  
is created a duplication in numbering, reads as follows:

1           A. Subject to the availability of funds, each district attorney  
2 may create within the office of the district attorney a Drug  
3 Possession Diversion Program and assign sufficient staff and  
4 resources for the efficient operation of the program.

5           B. Referral of a violation of the provisions of Section 2-402  
6 of Title 63 of the Oklahoma Statutes or possession of drug  
7 paraphernalia in violation of subsection B of Section 2-405 of Title  
8 63 of the Oklahoma Statutes to the Drug Possession Diversion Program  
9 shall be at the discretion of the district attorney. This act shall  
10 not limit the power of the district attorney to prosecute a case for  
11 possession of a controlled dangerous substance.

12           C. Upon receipt of a case for possession of a controlled  
13 dangerous substance, the district attorney shall determine if the  
14 charge is one which is appropriate to be referred to the Drug  
15 Possession Diversion Program.

16           D. In determining whether to refer a case to the Drug  
17 Possession Diversion Program, the district attorney shall consider  
18 the following:

- 19           1. The schedule of the controlled dangerous substance possessed  
20 by the defendant;
- 21           2. The amount of the controlled dangerous substance possessed  
22 by the defendant;
- 23           3. If the defendant has a prior criminal record;

24

1 4. The number of drug-related crimes against the defendant  
2 previously received by the district attorney;

3 5. Whether or not there are other criminal charges currently  
4 pending against the defendant; and

5 6. The strength of the evidence against the defendant.

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 2-902 of Title 63, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. Subject to the provisions of this act, the district attorney  
10 may enter into a written agreement with the defendant pursuant to  
11 the provisions of Sections 305.1 through 305.6 of Title 22 of the  
12 Oklahoma Statutes to defer prosecution of a charge for possession of  
13 a controlled dangerous substance, possession of drug paraphernalia  
14 or both possession of a controlled dangerous substance and  
15 possession of drug paraphernalia for a period to be determined by  
16 the district attorney, not to exceed twenty-four (24) months.

17 B. The defendant shall pay to the district attorney a fee equal  
18 to the amount which would have been assessed as court costs upon  
19 filing of the case in district court. Funds received by the  
20 district attorney pursuant to this act shall be deposited in a  
21 special fund with the county treasurer to be known as the "Drug  
22 Possession Diversion Program Fund". This fund shall be used by the  
23 district attorney to defray any lawful expense of the office of the  
24 district attorney. The district attorney shall keep records of all

1 monies deposited to and disbursed from this fund. The records of  
2 the fund shall be audited at the same time the records of county  
3 funds are audited.

4 C. Unless the agreement between the defendant and the district  
5 attorney provides otherwise, the defendant shall be supervised in  
6 the community by the district attorney pursuant to the provisions of  
7 subsection A of Section 991d of Title 22 of the Oklahoma Statutes.

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2-903 of Title 63, unless there  
10 is created a duplication in numbering, reads as follows:

11 Staff members of the district attorney shall perform duties in  
12 connection with the Drug Possession Diversion Program in addition to  
13 any other duties which are assigned by the district attorney.

14 SECTION 4. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2-904 of Title 63, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. District attorneys shall prepare and submit an annual report  
18 to the District Attorneys Council showing total deposits and total  
19 expenditures in the Drug Possession Diversion Program.

20 B. By September 15 of each year, the District Attorneys Council  
21 shall publish an annual report for the previous fiscal year of the  
22 Drug Possession Diversion Program. An electronic copy of the report  
23 shall be distributed to the President Pro Tempore of the Senate, the  
24 Speaker of the Oklahoma House of Representatives and the chairs of

1 the House and Senate Appropriation and Budget Committees. Each  
2 district attorney shall submit information requested by the District  
3 Attorneys Council regarding the Drug Possession Diversion Program.  
4 The report shall include the number of charges referred to and  
5 accepted into the Drug Possession Diversion Program, the total  
6 amount of fees collected and such other information as required by  
7 the District Attorneys Council.

8 SECTION 5. This act shall become effective November 1, 2016.

9 Passed the House of Representatives the 10th day of March, 2016.

10  
11 \_\_\_\_\_  
12 Presiding Officer of the House  
of Representatives

13 Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2016.

14  
15 \_\_\_\_\_  
16 Presiding Officer of the Senate  
17  
18  
19  
20  
21  
22  
23  
24