

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 2902

By: David and Matthews of the
Senate

6 and

7 Loring and Sherrer of the
8 House

9
10 COMMITTEE SUBSTITUTE

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

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

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

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

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

19 D. In determining whether to refer a case to the Drug
20 Possession Diversion Program, the district attorney shall consider
21 the following:

22 1. The schedule of the controlled dangerous substance possessed
23 by the defendant;

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- 1 2. The amount of the controlled dangerous substance possessed
- 2 by the defendant;
- 3 3. If the defendant has a prior criminal record;
- 4 4. The number of drug-related crimes against the defendant
- 5 previously received by the district attorney;
- 6 5. Whether or not there are other criminal charges currently
- 7 pending against the defendant; and
- 8 6. The strength of the evidence against the defendant.

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

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

20 B. The defendant shall pay to the district attorney a fee equal
21 to the amount which would have been assessed as court costs upon
22 filing of the case in district court. Funds received by the
23 district attorney pursuant to this act shall be deposited in a
24 special fund with the county treasurer to be known as the "Drug

1 Possession Diversion Program Fund". This fund shall be used by the
2 district attorney to defray any lawful expense of the office of the
3 district attorney. The district attorney shall keep records of all
4 monies deposited to and disbursed from this fund. The records of
5 the fund shall be audited at the same time the records of county
6 funds are audited.

7 C. Unless the agreement between the defendant and the district
8 attorney provides otherwise, the defendant shall be supervised in
9 the community by the district attorney or by a private supervision
10 program pursuant to the provisions of subsection A of Section 991d
11 of Title 22 of the Oklahoma Statutes.

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

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

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

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

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1 B. By September 15 of each year, the District Attorneys Council
2 shall publish an annual report for the previous fiscal year of the
3 Drug Possession Diversion Program. An electronic copy of the report
4 shall be distributed to the President Pro Tempore of the Senate, the
5 Speaker of the House of Representatives and the chairs of the House
6 and Senate Appropriation and Budget Committees. Each district
7 attorney shall submit information requested by the District
8 Attorneys Council regarding the Drug Possession Diversion Program.
9 The report shall include the number of charges referred to and
10 accepted into the Drug Possession Diversion Program, the total
11 amount of fees collected and such other information as required by
12 the District Attorneys Council.

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

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