

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 115

By: Standridge

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6 AS INTRODUCED

7 An Act relating to deferred prosecution programs;  
8 amending 22 O.S. 2011, Section 305.1, which relates  
9 to guidelines and factors considered; clarifying  
10 language; authorizing use of deferred prosecution  
11 programs for persons accused of certain offenses;  
12 establishing requirements for participation in  
13 deferred prosecution programs for certain offenses;  
14 requiring payment of certain fees; clarifying  
15 eligibility; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 305.1, is  
18 amended to read as follows:

19 Section 305.1. A. Before the filing of an information against  
20 a person accused of committing a crime, the State of Oklahoma,  
21 through its district attorney, may agree with an accused to defer  
22 the filing of a criminal information for a period not to exceed  
23 three (3) years.

24 The State of Oklahoma may include any person in a deferred  
prosecution program if it is in the best interests of the accused  
and not contrary to the public interest. Each district attorney

1 shall adopt and promulgate guidelines which shall indicate what  
2 factors shall be considered in including an accused in the deferred  
3 prosecution program. The guidelines shall ~~insure~~ ensure that the  
4 State of Oklahoma considers in each case at least the following  
5 factors:

6 1. Whether the State of Oklahoma has sufficient evidence to  
7 achieve conviction;

8 2. The nature of the offense with priority given to first  
9 offenders and nonviolent crimes;

10 3. Any special characteristics of the accused;

11 4. Whether the accused will cooperate and benefit from a  
12 deferred prosecution program;

13 5. Whether available programs are appropriate to the accused  
14 person's needs;

15 6. Whether the services for the accused are more readily  
16 available from the community or from the corrections system;

17 7. Whether the accused constitutes a substantial danger to  
18 others;

19 8. The impact of the deferred prosecution on the community;

20 9. The recommendations of the law enforcement agency involved  
21 in the case;

22 10. The opinions of the victim; and

23 11. Any mitigating or aggravating circumstances.  
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1        B. The State of Oklahoma, in the discretion of the district  
2 attorney, may include a person accused of committing the offense of  
3 domestic abuse or domestic assault as defined by Section 644 of  
4 Title 21 of the Oklahoma Statutes in a deferred prosecution program.  
5 The accused shall participate in the same counseling or other  
6 treatment as required by paragraph 2 of subsection G of Section 644  
7 of Title 21 of the Oklahoma Statutes; provided, however, the accused  
8 shall participate in the certified batterers' intervention program  
9 (BIP) for the required fifty-two (52) weeks and shall not reside in  
10 the same household as the victim nor have any contact with the  
11 victim, children residing in the home, victim's immediate family or  
12 other household member for, at a minimum, the first ninety (90) days  
13 of the counseling or BIP treatment. The accused shall pay all  
14 supervisory, program and other fees as required pursuant to Section  
15 305.2 of this title. An accused shall be eligible one time only for  
16 participation in a deferred prosecution program pursuant to this  
17 subsection.

18        SECTION 2. This act shall become effective November 1, 2021.

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