

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2190

By: Graves

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 305.1, which relates to deferred prosecution; prohibiting use of deferred prosecution for certain public office holders; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 305.1, is amended to read as follows:

Section 305.1 A. Before the filing of an information against a person accused of committing a crime, the State of Oklahoma, through its district attorney, may agree with an accused to defer the filing of a criminal information for a period not to exceed two (2) years.

~~The~~ B. Except as provided in subsection C of this section, 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 shall adopt and promulgate guidelines which shall indicate what factors shall be considered in including an accused in the deferred prosecution program. The guidelines shall insure that the State of Oklahoma considers in each case at least the following factors:

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

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

3. Any special characteristics of the accused;

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

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

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

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

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

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

10. The opinions of the victim; and

11. Any mitigating or aggravating circumstances.

C. The state shall not include any public office holder in a deferred prosecution program for any alleged violation of state law if the alleged violation occurred during the public office holder's term of office or if the alleged violation involves the campaign, election or ethics laws of this state.

D. As used in this section, "public office holder" means an elected or appointed officer of a state governmental entity or an elected or appointed officer of a governmental entity of a political subdivision of the state.

SECTION 2. This act shall become effective September 1, 1994.

44-2-7524

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