



1 municipality or other subdivision thereof in any manner or for any  
2 purpose shall be commenced within seven (7) years after the  
3 discovery of the crime; provided, however, prosecutions for the  
4 crimes of embezzlement or misappropriation of public money, bonds,  
5 securities, assets or property of any school district, including  
6 those relating to student activity funds, or the crime of  
7 falsification of public records of any independent school district,  
8 the crime of criminal conspiracy, the crime of embezzlement,  
9 pursuant to Sections 1451 through 1462 of Title 21 of the Oklahoma  
10 Statutes, the crime of False Personation or Identity Theft, pursuant  
11 to Sections 1531 through 1533.3 of Title 21 of the Oklahoma  
12 Statutes, or the financial exploitation of a vulnerable adult,  
13 pursuant to Sections 843.1, 843.3 and 843.4 of Title 21 of the  
14 Oklahoma Statutes, shall be commenced within five (5) years after  
15 the discovery of the crime.

16 B. Prosecutions for criminal violations of any state income tax  
17 laws shall be commenced within five (5) years after the commission  
18 of such violation.

19 C. 1. Prosecutions for the crime of rape or forcible sodomy,  
20 sodomy, lewd or indecent proposals or acts against children,  
21 involving minors in pornography pursuant to Section 886, 888, 1111,  
22 1111.1, 1113, 1114, 1021.2, 1021.3 or 1123 of Title 21 of the  
23 Oklahoma Statutes, child abuse pursuant to Section 7115 of Title 10

1 of the Oklahoma Statutes, and child trafficking pursuant to Section  
2 866 of Title 21 of the Oklahoma Statutes shall be commenced within  
3 twelve (12) years after the discovery of the crime.

4 2. However, prosecutions for the crimes listed in paragraph 1  
5 of this subsection may be commenced at any time after the commission  
6 of the offense if:

- 7 a. the victim notified law enforcement within twelve (12)  
8 years after the discovery of the crime,
- 9 b. physical evidence is collected and preserved that is  
10 capable of being tested to obtain a profile from  
11 deoxyribonucleic acid (DNA), and
- 12 c. the identity of the offender is subsequently  
13 established through the use of a DNA profile using  
14 evidence listed in subparagraph b of this paragraph.

15 A prosecution under this exception must be commenced within  
16 three (3) years from the date on which the identity of the suspect  
17 is established by DNA testing.

18 D. Prosecutions for criminal violations of any provision of the  
19 Oklahoma Wildlife Conservation Code shall be commenced within three  
20 (3) years after the commission of such offense.

21 E. Prosecutions for the crime of criminal fraud or workers'  
22 compensation fraud pursuant to Section 1541.1, 1541.2, 1662 or 1663  
23 of Title 21 of the Oklahoma Statutes shall commence within three (3)

1 years after the discovery of the crime, but in no event greater than  
2 seven (7) years after the commission of the crime.

3 F. Prosecution for the crime of false or bogus check, Section  
4 1541.1, 1541.2, 1541.3 or 1541.4 of Title 21 of the Oklahoma  
5 Statutes, shall be commenced within five (5) years after the  
6 commission of such offense.

7 G. Prosecution for the crime of solicitation for murder in the  
8 first degree pursuant to Section 701.16 of Title 21 of the Oklahoma  
9 Statutes shall be commenced within seven (7) years after the  
10 discovery of the crime. For purposes of this subsection,  
11 "discovery" means the date upon which the crime is made known to  
12 anyone other than a person involved in the solicitation.

13 H. In all other cases a prosecution for a public offense must  
14 be commenced within three (3) years after its commission.

15 I. Prosecution for the crime of accessory after the fact must  
16 be commenced within the same statute of limitations as that of the  
17 felony for which the person acted as an accessory.

18 J. As used in paragraph 1 of subsection C of this section,  
19 "discovery" means the date that a physical or sexually related crime  
20 involving a victim under the age of eighteen (18) years of age is  
21 reported to a law enforcement agency, up to and including one (1)  
22 year from the eighteenth birthday of the child.

1 SECTION 2. AMENDATORY 22 O.S. 2001, Section 991f-1.1, is  
2 amended to read as follows:

3 Section 991f-1.1 A. Each district attorney shall create within  
4 the district attorney's office a Restitution and Diversion Program  
5 and assign sufficient staff and resources for the efficient  
6 operation of such program. The purpose of the Restitution and  
7 Diversion Program is to allow the district attorney the discretion  
8 to divert criminal complaints involving property crimes from  
9 criminal court and to monitor restitution payments. At the  
10 discretion of the district attorney, the program may be administered  
11 by the Bogus Check Restitution Program operated by the county.

12 B. 1. Referral of a criminal complaint to the Restitution and  
13 Diversion Program shall be at the discretion of the district  
14 attorney. This act shall not limit the power of the district  
15 attorney to prosecute criminal complaints.

16 2. Upon receipt of a criminal complaint involving property, the  
17 district attorney shall determine if the complaint is one which is  
18 appropriate for deferred prosecution.

19 3. In determining whether to defer prosecution and refer a case  
20 to the Restitution and Diversion Program, the district attorney  
21 shall consider the following factors:

22 a. whether the criminal complaint alleges an offense  
23 involving property,

- 1           b.    whether the alleged offense was committed in an  
2                    aggressive, violent, premeditated or willful manner,  
3           c.    the prospects for adequate protection of the public if  
4                    the accused person is processed through deferred  
5                    prosecution in the Restitution and Diversion Program,  
6           d.    the number of criminal complaints against the  
7                    defendant previously received by the district  
8                    attorney,  
9           e.    whether or not there are other criminal complaints  
10                   currently pending against the defendant,  
11           f.    the strength of the evidence of the particular  
12                   criminal complaint, and  
13           g.    the wishes of the victim.

14           C.    Upon referral of a complaint to the Restitution and  
15    Diversion Program, a notice of the complaint shall be forwarded by  
16    mail to the accused person.  The notice shall contain:

- 17           1.    The date the act which is the subject of the complaint  
18                   occurred;  
19           2.    The name of the victim;  
20           3.    The date before which the accused person must contact the  
21                   office of the district attorney concerning the complaint; and  
22           4.    A statement of the penalty for the crime which is the  
23                   subject of the complaint.

1 D. The district attorney may enter into a written agreement  
2 with the accused person to defer prosecution on the criminal  
3 complaint for a period to be determined by the district attorney,  
4 not to exceed ~~two (2)~~ three (3) years pending restitution being made  
5 to the victim of the complaint and payment of necessary fees.

6 E. Each restitution agreement shall include a provision  
7 requiring the accused person to pay to the district attorneys office  
8 a fee equal to the amount which would have been assessed as court  
9 costs upon the filing of the case in district court plus Twenty-five  
10 Dollars (\$25.00) for each criminal complaint covered by the  
11 agreement. This fee may be deposited in a special fund with the  
12 county treasurer to be known as the "Restitution and Diversion  
13 Program Fund" or in the Bogus Check Restitution Fund. The monies  
14 deposited in the Restitution and Diversion Program Fund shall be  
15 used by the district attorney to make any lawful expenditure  
16 associated with the district attorney's office. The district  
17 attorney shall keep records of all monies deposited to and disbursed  
18 from these funds. The records of these funds shall be audited at  
19 the same time the records of county funds are audited.

20 F. 1. Restitution to be paid by the accused person to the  
21 victim shall include out-of-pocket expenses the victim incurred as a  
22 direct result of the crime having been committed. A restitution  
23 agreement may include provisions for restitution in an amount up to

1 treble the amount of property involved except such restitution shall  
2 not apply to false or bogus checks. If, instead of paying  
3 restitution directly to the victim, the accused person delivers  
4 restitution funds to the office of the district attorney, the  
5 district attorney shall deposit such funds in a depository account  
6 in the office of the county treasurer to be disbursed to the victim  
7 by a warrant signed by the district attorney or a member of the  
8 district attorney's staff assigned to the Restitution and Diversion  
9 Program. The district attorney shall keep full records of all  
10 restitution monies received and disbursed. These records shall be  
11 audited at the same time the county funds are audited;

12 2. If the accused person fails to comply with the provisions of  
13 the Restitution and Diversion Program agreement, the district  
14 attorney may file an information and proceed with the prosecution of  
15 the accused person as provided by law.

16 G. Members of the district attorney's staff shall perform  
17 duties in connection with the Restitution and Diversion Program in  
18 addition to any other duties which may be assigned by the district  
19 attorney.

20 H. 1. District attorneys shall prepare and submit an annual  
21 report to the District Attorneys Council showing total deposits and  
22 total expenditures in the Restitution and Diversion Program.

1           2. By September 15 of each year, the District Attorneys Council  
2 shall publish an annual report for the previous fiscal year of the  
3 Restitution and Diversion Program. A copy of the report shall be  
4 distributed to the President Pro Tempore of the Senate and the  
5 Speaker of the House of Representatives and the chairs of the House  
6 and Senate Appropriations Committees. Each district attorney shall  
7 submit information requested by the District Attorneys Council  
8 regarding the Restitution and Diversion Program. This report shall  
9 include the number of cases processed, the total dollar amount for  
10 which restitution was made, the total amount of the restitution  
11 collected, the total amount of fees collected, the total cost of the  
12 program, and such other information as required by the District  
13 Attorneys Council.

14           I. For the purposes of the Restitution and Diversion Program,  
15 the following definitions shall apply:

16           1. "Property Crime" shall include, but not be limited to the  
17 following:

- 18           a. embezzlement offenses,
- 19           b. larceny offenses,
- 20           c. theft offenses,
- 21           d. malicious injury to property, and
- 22           e. any offense which results in economic loss, but does  
23           not result in physical injury to another human being,

1                   and which is not enumerated in Section 571 of Title 57  
2                   of the Oklahoma Statutes;

3           2. "Victim" is defined by Section 991f of ~~Title 22 of the~~  
4 ~~Oklahoma Statutes~~ this title;

5           3. "Restitution" is defined by Section 991f of ~~Title 22 of the~~  
6 ~~Oklahoma Statutes~~ this title; and

7           4. "Economic loss" is defined by Section 991f of ~~Title 22 of~~  
8 ~~the Oklahoma Statutes~~ this title.

9           J. The victim shall promptly provide to the Restitution and  
10 Diversion Program all documentation and evidence of compensation or  
11 reimbursement from insurance companies or agencies of this state,  
12 any other state, or the federal government received as a direct  
13 result of the crime for injury, loss of earnings or out-of-pocket  
14 loss.

15           SECTION 3. This act shall become effective November 1, 2009.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-24-09 - DO  
17 PASS, As Coauthored.