

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2902

By: Loring and Sherrer of the
House

and

David of the Senate

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.

AUTHORS: Add the following Senate Coauthors: Matthews and Brooks

AUTHORS: Add the following House Coauthors: McCullough and Biggs

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

"An Act relating to public health and safety;
authorizing district attorneys to create a Drug

1 Possession Diversion Program; providing for referrals
2 to the program; providing factors to be considered in
3 referring cases to the program; allowing district
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18 codification; and providing an effective date.

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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:

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

B. Referral of a violation of the provisions of Section 2-402
of Title 63 of the Oklahoma Statutes or possession of drug
paraphernalia in violation of subsection B of Section 2-405 of Title
63 of the Oklahoma Statutes to the Drug Possession Diversion Program
shall be at the discretion of the district attorney. This act shall

1 not limit the power of the district attorney to prosecute a case for
2 possession of a controlled dangerous substance.

3 C. Upon receipt of a case for possession of a controlled
4 dangerous substance, the district attorney shall determine if the
5 charge is one which is appropriate to be referred to the Drug
6 Possession Diversion Program.

7 D. In determining whether to refer a case to the Drug
8 Possession Diversion Program, the district attorney shall consider
9 the following:

10 1. The schedule of the controlled dangerous substance possessed
11 by the defendant;

12 2. The amount of the controlled dangerous substance possessed
13 by the defendant;

14 3. If the defendant has a prior criminal record;

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

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

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

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

23 A. Subject to the provisions of this act, the district attorney
24 may enter into a written agreement with the defendant pursuant to

1 the provisions of Sections 305.1 through 305.6 of Title 22 of the
2 Oklahoma Statutes to defer prosecution of a charge for possession of
3 a controlled dangerous substance, possession of drug paraphernalia
4 or both possession of a controlled dangerous substance and
5 possession of drug paraphernalia for a period to be determined by
6 the district attorney, not to exceed twenty-four (24) months.

7 B. The defendant shall pay to the district attorney a fee equal
8 to the amount which would have been assessed as court costs upon
9 filing of the case in district court. Funds received by the
10 district attorney pursuant to this act shall be deposited in a
11 special fund with the county treasurer to be known as the "Drug
12 Possession Diversion Program Fund". This fund shall be used by the
13 district attorney to defray any lawful expense of the office of the
14 district attorney. The district attorney shall keep records of all
15 monies deposited to and disbursed from this fund. The records of
16 the fund shall be audited at the same time the records of county
17 funds are audited.

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

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

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

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

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

13 B. By September 15 of each year, the District Attorneys Council
14 shall publish an annual report for the previous fiscal year of the
15 Drug Possession Diversion Program. An electronic copy of the report
16 shall be distributed to the President Pro Tempore of the Senate, the
17 Speaker of the House of Representatives and the chairs of the House
18 and Senate Appropriation and Budget Committees. Each district
19 attorney shall submit information requested by the District
20 Attorneys Council regarding the Drug Possession Diversion Program.
21 The report shall include the number of charges referred to and
22 accepted into the Drug Possession Diversion Program, the total
23 amount of fees collected and such other information as required by
24 the District Attorneys Council.

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20 by the defendant;

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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.

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11 _____
12 Presiding Officer of the House
of Representatives

13 Passed the Senate the ___ day of _____, 2016.

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16 Presiding Officer of the Senate
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