

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2902 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Ben Loring

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2902

By: Biggs

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8 PROPOSED COMMITTEE SUBSTITUTE

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

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:

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

5 B. Referral of a violation of the provisions of Section 2-402
6 of Title 63 of the Oklahoma Statutes to the Drug Possession
7 Diversion Program shall be at the discretion of the district
8 attorney. This act shall not limit the power of the district
9 attorney to prosecute a case for possession of a controlled
10 dangerous substance.

11 C. Upon receipt of a case for possession of a controlled
12 dangerous substance, the district attorney shall determine if the
13 charge is one which is appropriate to be referred to the Drug
14 Possession Diversion Program.

15 D. In determining whether to refer a case to the Drug
16 Possession Diversion Program, the district attorney shall consider
17 the following guidelines:

18 1. The schedule of the controlled dangerous substance possessed
19 by the defendant;

20 2. The amount of the controlled dangerous substance possessed
21 by the defendant;

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

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

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

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

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

7 A. The district attorney may enter into a written agreement
8 with the defendant to defer prosecution of a charge for possession
9 of a controlled dangerous substance for a period to be determined by
10 the district attorney, not to exceed twenty-four (24) months. Each
11 agreement shall contain such conditions as are mutually agreed upon
12 by the defendant and the district attorney to address the drug-
13 related behavior of the defendant.

14 B. Defendants shall be admitted to the Drug Possession
15 Diversion Program if the defendant has no prior criminal history
16 other than traffic offenses and was in possession of a controlled
17 dangerous substance in amounts not exceeding the following:

18 1. Up to One Thousand (1,000) grams of any Schedule I or II
19 substance, except marijuana or a substance included in subsection D
20 of Section 2-206 of Title 63 of the Oklahoma Statutes;

21 2. Up to One Thousand (1,000) grams of any Schedule III, IV or
22 V substance, a substance included in subsection D of Section 2-206
23 of Title 63 of the Oklahoma Statutes, or any preparation excepted
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1 from the provisions of the Uniform Controlled Dangerous Substances
2 Act; or

3 3. Up to one (1) ounce of marijuana.

4 C. Each agreement shall include a provision requiring the
5 defendant to pay to the district attorney a fee equal to the amount
6 which would have been assessed as court costs upon the filing of a
7 criminal case in district court. The fees collected by the district
8 attorney shall be deposited in a special fund with the county
9 treasurer to be known as the "Drug Possession Diversion Program
10 Fund". This fund shall be used by the district attorney to defray
11 any lawful expense of the office of the district attorney. The
12 district attorney shall keep records of all monies deposited to and
13 disbursed from this fund. The records of the fund shall be audited
14 at the same time the records of county funds are audited.

15 D. If the defendant fails to comply with the terms of the
16 written deferred prosecution agreement, the district attorney may
17 file an information and proceed with the prosecution of the
18 defendant as provided by law.

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

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

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

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

7 B. By September 15 of each year, the District Attorneys Council
8 shall publish an annual report for the previous fiscal year of the
9 Drug Possession Diversion Program. A copy of the report shall be
10 distributed to the President Pro Tempore of the Senate, the Speaker
11 of the Oklahoma House of Representatives and the chairmen of the
12 House and Senate Appropriation and Budget Committees. Each district
13 attorney shall submit information requested by the District
14 Attorneys Council regarding the Drug Possession Diversion Program.
15 The report shall include the number of charges for possession of a
16 controlled dangerous substance referred to and accepted into the
17 Drug Possession Diversion Program, the total amount of fees
18 collected, the total cost of the program and such other information
19 as required by the District Attorneys Council. The report shall
20 provide totals by county and by district.

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

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23 55-2-9203 GRS 02/18/16

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