

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB359 \_\_\_\_\_  
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**

Amendment submitted by: Mike Christian

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

PROPOSED  
COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 359

By: Brooks of the Senate

and

Christian of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to uninsured motorists; creating the Uninsured Vehicle Enforcement Program; directing district attorneys to implement the program; authorizing contractual agreements; authorizing the use of automatic license plate reader systems; requiring a central database be established; limiting access to the central database; requiring access to the online verification system information to be used in a certain manner; specifying manner in which the automatic license plate reader system may be used; requiring certain data be retained when used as evidence; limiting purpose for which certain data may be used; prohibiting the sale or sharing of certain data; authorizing law enforcement agencies to share certain data upon written request for certain purposes; exempting certain data from the Oklahoma Open Records Act; providing applicability of the program; requiring the District Attorneys Council to publish an annual report; defining terms; creating the Uninsured Vehicle Enforcement Diversion Program; stating purpose of the program; providing referral of criminal complaints and deferred prosecution shall be at the discretion of the district attorney; requiring the district attorney to consider certain factors; requiring mailed notice; providing notice contents; authorizing a written agreement to defer prosecution; requiring agreement include certain conditions; requiring certain fee; directing fee be deposited in the Uninsured Vehicle Enforcement Diversion Program

1 Fund; stating purpose of deposited funds; requiring  
2 records of all monies deposited and disbursed from  
3 the fund; requiring funds be audited at certain time;  
4 providing staffing; requiring district attorneys  
5 submit annual report of deposits and expenditures;  
6 requiring requested information be submitted;  
7 requiring District Attorneys Council publish annual  
8 report; providing for distribution; providing report  
9 contents; providing for codification; and providing  
10 an effective date.

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 7-606.1 of Title 47, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. There is hereby created the Uninsured Vehicle Enforcement  
17 Program.

18 B. The Uninsured Vehicle Enforcement Program shall be  
19 implemented and administered by the district attorneys of the State  
20 of Oklahoma. To implement this program, the use of technology and  
21 software to aid in detection of offenses involving uninsured  
22 motorists is necessary and district attorneys and participating law  
23 enforcement agencies shall have the authority to enter into  
24 contractual agreements with other entities to provide necessary  
technology, equipment and maintenance thereof.

25 C. 1. Participating law enforcement agencies may use automatic  
26 license plate reader systems utilizing individual automatic license  
27 plate reader system units to access and collect data for the

1 investigation, detection, analysis or enforcement of Oklahoma's  
2 Compulsory Insurance Law.

3 2. Contracted entities may use automatic license plate reader  
4 systems utilizing individual automatic license plate reader system  
5 units for the collection and storage of data to assist the  
6 participating law enforcement agency in developing, utilizing and  
7 managing the program.

8 D. A central database for the collection, storage and  
9 dissemination of data captured by an automatic license plate reader  
10 system shall be established and operated by participating law  
11 enforcement agencies or other entities. The central database shall  
12 be located in a secure area. The central database shall fully  
13 comply with all National Law Enforcement Telecommunications System  
14 (NLETS) and Federal Bureau of Investigation hosting and security  
15 standards. Access to the database shall be restricted to authorized  
16 law enforcement agency users in the program and to any entities with  
17 whom the participating law enforcement agencies contract to  
18 establish and operate the program and maintain the equipment.

19 E. To accomplish the purposes of the program, the Department of  
20 Public Safety shall allow law enforcement agencies access to the  
21 online verification system as provided for in Section 7-600.2 of  
22 Title 47 of the Oklahoma Statutes to be used only in connection with  
23 the automatic license plate reader system and in accordance with a  
24 memorandum of understanding to be executed between the district

1 attorneys, Department of Public Safety, sheriffs and chiefs of  
2 police in the state.

3 F. The automatic license plate reader system may be used by a  
4 law enforcement officer or other authorized user employed by a  
5 participating law enforcement agency in the jurisdictions of the  
6 program as follows:

7 1. If a law enforcement officer, by using this system, is able  
8 to determine that the owner or operator of a motor vehicle is in  
9 violation of the Compulsory Insurance Law, through the process of  
10 accessing information from the central database described in  
11 subsection D of this section, that determination shall constitute  
12 probable cause to arrest the operator of the motor vehicle or to  
13 issue a citation to the owner or operator of the motor vehicle for  
14 the violation of the Compulsory Insurance Law; and

15 2. A law enforcement officer may verify by sworn affidavit that  
16 a photograph generated by an automatic license plate reader system  
17 unit identifies a particular vehicle operating on or having been  
18 operated on a public road, highway, street, turnpike, other public  
19 place or upon any private road, street, alley or lane which provides  
20 access to one or more single-family or multifamily dwellings and  
21 that the central database shows that the vehicle was uninsured at  
22 the time such vehicle was being operated. The affidavit shall  
23 constitute probable cause for prosecution under applicable state  
24 law.

1       G. Data collected or retained through the use of an automated  
2 license plate reader system pursuant to the program shall be  
3 retained by a law enforcement agency or other entity when the data  
4 is being used as evidence of a violation of the Compulsory Insurance  
5 Law or for the purpose of Amber Alerts and Silver Alerts.

6       H. 1. Data collected or retained through the use of an  
7 automated license plate reader system shall not be used by any  
8 individual or agency for purposes other than enforcement of  
9 Oklahoma's Compulsory Insurance Law, Amber Alerts, Silver Alerts or  
10 as otherwise permitted by law.

11       2. No law enforcement agency or other entity authorized to  
12 operate under this program shall sell captured license plate data  
13 for any purpose or share it for any purpose not expressly authorized  
14 by this section.

15       3. A participating law enforcement agency may provide data to  
16 another law enforcement agency upon written request of the other law  
17 enforcement agency for the purpose of Amber Alerts and Silver  
18 Alerts.

19       4. Any and all data collected, retained or shared through the  
20 use of an automated license plate reader system, except data  
21 retained as evidence of a violation of the Compulsory Insurance Law  
22 or for the purpose of Amber Alerts and Silver Alerts, shall be  
23 exempt from the Oklahoma Open Records Act.  
24

1 I. The provisions of the Uninsured Vehicle Enforcement Program  
2 shall apply only to law enforcement agencies and other entities and  
3 shall not apply to, or be construed or interpreted in a manner to  
4 prohibit the use of, any other automated license plate reader system  
5 by an individual or private legal entity for purposes not otherwise  
6 prohibited by law.

7 J. By September 15, 2017, and by September 1 of each year  
8 thereafter, the District Attorneys Council shall publish an annual  
9 report for the previous fiscal year of the Uninsured Vehicle  
10 Enforcement Program. A copy of the report shall be distributed to  
11 the President Pro Tempore of the Senate and the Speaker of the  
12 Oklahoma House of Representatives and the chairpersons of the House  
13 and Senate Appropriations Committees. The report shall comprise an  
14 evaluation of program operations, and may include any information  
15 and recommendations for improvement of the program deemed  
16 appropriate by the entity submitting the report.

17 K. For purposes of this section:

18 1. "Automatic licenseplate reader system" means a system of  
19 one or more mobile or law-enforcement-controlled cameras combined  
20 with computer algorithms to convert images of registration plates  
21 into computer-readable data;

22 2. "Law enforcement agency" includes the district attorney's  
23 office of any county, the Department of Public Safety, the sheriff's  
24 office of any county, and the chiefs of police of any city or town

1 having a population of more than one hundred thousand (100,000)  
2 residents;

3 3. "Other entity" means any entity with which a district  
4 attorney or participating law enforcement agency contracts to  
5 implement and administer the program; and

6 4. "Program" means the Uninsured Vehicle Enforcement Program.

7 SECTION 2. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 7-606.2 of Title 47, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. Each district attorney may create within the district  
11 attorney's office an Uninsured Vehicle Enforcement Diversion Program  
12 and assign sufficient staff and resources for the efficient  
13 operation of the program. The purpose of the Uninsured Vehicle  
14 Enforcement Diversion Program is to allow the district attorney the  
15 discretion to divert criminal complaints involving the failure to  
16 comply with mandatory vehicle liability insurance coverage from  
17 criminal court and to enhance public safety and security through  
18 increased compliance with mandatory vehicle liability insurance  
19 coverage.

20 B. 1. Referral of a criminal complaint to the Uninsured  
21 Vehicle Enforcement Diversion Program shall be at the discretion of  
22 the district attorney. This act shall not limit the power of the  
23 district attorney to prosecute criminal complaints.

24

1        2. Upon receipt of a criminal complaint for failure to comply  
2 with the Compulsory Insurance Law, the district attorney shall  
3 determine if the complaint is one which is appropriate for deferred  
4 prosecution.

5        3. In determining whether to defer prosecution and refer a case  
6 to the Uninsured Vehicle Enforcement Diversion Program, the district  
7 attorney shall consider the following factors:

8            a. whether the criminal complaint alleges an offense  
9                involving the failure to maintain required vehicle  
10               liability insurance coverage,

11           b. whether it is in the best interest of the accused if  
12                the accused person is processed through deferred  
13                prosecution in the Uninsured Vehicle Enforcement  
14                Diversion Program,

15           c. the prospects for adequate protection of the public if  
16                the accused person is processed through deferred  
17                prosecution in the Uninsured Vehicle Enforcement  
18                Diversion Program,

19           d. the number of criminal complaints against the  
20                defendant previously received by the district  
21                attorney,

22           e. whether or not there are other criminal complaints  
23                currently pending against the defendant, and  
24

1           f.    the strength of the evidence of the particular  
2                criminal complaint.

3           C.   Upon referral of a complaint to the Uninsured Vehicle  
4 Enforcement Diversion Program, a notice of the complaint shall be  
5 forwarded by mail to the accused person. The notice shall contain:

6           1.   The date the act which is the subject of the complaint  
7 occurred;

8           2.   A statement of the penalty for the violation of the  
9 Compulsory Insurance Law which is the subject of the complaint;

10          3.   A statement that the complaint against the accused person  
11 has been referred to the Uninsured Vehicle Enforcement Diversion  
12 Program; and

13          4.   The date before which the accused person must contact the  
14 office of the district attorney concerning the complaint.

15          D.   The district attorney may enter into a written agreement  
16 with the accused person to defer prosecution on the complaint for a  
17 period to be determined by the district attorney, not to exceed two  
18 (2) years. The conditions of an agreement to defer prosecution  
19 shall include:

20          1.   The accused shall provide verification of current insurance  
21 upon request of the district attorney;

22          2.   The accused shall comply with the provisions of the Oklahoma  
23 Compulsory Insurance Law for the full term of the agreement; and  
24

1        3. The accused shall not own or operate any vehicle in  
2 violation of the Oklahoma Compulsory Insurance Law during the full  
3 term of the agreement.

4        E. Each diversion agreement shall include a provision requiring  
5 the accused person to pay to the district attorney's office a fee  
6 equal to the amount which would have been assessed as court costs  
7 upon the filing of the case in district court. This fee shall be  
8 deposited in a special fund with the county treasurer to be known as  
9 the "Uninsured Vehicle Enforcement Diversion Program Fund." The  
10 monies deposited in the Uninsured Vehicle Enforcement Diversion  
11 Program Fund shall be used by the district attorney to pay for all  
12 expenses and costs of equipping, operating and monitoring the  
13 vehicle insurance program, including but not limited to contractual  
14 payments to third-party entities providing essential services and/or  
15 equipment for detection of violations of Oklahoma's Compulsory  
16 Insurance Law, and payment of reasonable compensation to authorized  
17 and participating law enforcement agencies as may be agreed between  
18 such entities and law enforcement agencies and the district  
19 attorney. District attorneys may use proceeds from this diversion  
20 program to pay for any lawful expenditure associated with the  
21 operation of the district attorney's office. The district attorney  
22 shall keep records of all monies deposited to and disbursed from the  
23 Uninsured Vehicle Enforcement Diversion Program Fund. The records  
24

1 of these funds shall be audited at the same time the records of  
2 county funds are audited.

3 F. Members of the district attorney's staff shall perform  
4 duties in connection with the Uninsured Vehicle Enforcement  
5 Diversion Program in addition to any other duties which may be  
6 assigned by the district attorney.

7 G. 1. District attorneys shall prepare and submit an annual  
8 report to the District Attorneys Council showing total deposits and  
9 total expenditures in the Uninsured Vehicle Enforcement Diversion  
10 Program. Each district attorney shall submit information requested  
11 by the District Attorneys Council regarding the Uninsured Vehicle  
12 Enforcement Diversion Program.

13 2. By September 15 of each year, the District Attorneys Council  
14 shall publish an annual report for the previous fiscal year of the  
15 Uninsured Vehicle Enforcement Diversion Program. A copy of the  
16 report shall be distributed to the Governor, President Pro Tempore  
17 of the Senate and the Speaker of the House of Representatives and  
18 the chairs of the House and Senate Appropriations Committees. The  
19 report required by this paragraph shall include the number of cases  
20 processed, the total amount of fees collected, the total cost of the  
21 program, and such other information as required by the District  
22 Attorneys Council.

SECTION 3. This act shall become effective November 1, 2016.

55-2-9619            AMM            04/01/16