

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1519

By: Pittman

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6 AS INTRODUCED

7 An Act relating to deferred prosecution; amending 22
8 O.S. 2011, Section 305.2, which relates to district
9 attorney deferred prosecution; allowing certain
educational requirements; requiring certain
eligibility; and providing an effective date.

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

13 SECTION 1. AMENDATORY 22 O.S. 2011, Section 305.2, is
14 amended to read as follows:

15 Section 305.2. A. If an accused qualifies for the deferred
16 prosecution program, the accused and the State of Oklahoma, through
17 the district attorney, may execute an agreement whereby the accused
18 agrees to waive any rights to a speedy accusation, a speedy trial,
19 and any statute of limitations, and agrees to fulfill such
20 conditions to which the accused and the State of Oklahoma may agree
21 including, but not limited to, restitution and community services.

22 B. The accused, as consideration for entering into a deferred
23 prosecution agreement, consents and agrees to a full and complete
24 photographic record of property which was to be used as evidence.

1 The photographic record shall be competent evidence of the property
2 and admissible in any criminal action or proceeding as the best
3 evidence.

4 C. Property shall be returned to its owner only after the
5 photographic record is made subject to the following conditions:

6 1. Property, except that which is prohibited by law, shall be
7 returned to its owner after proper verification of title;

8 2. The return of property to the owner shall be without
9 prejudice to the state or to any person who may have a claim against
10 the property; and

11 3. When property is returned, the recipient shall sign, under
12 penalty of perjury, a declaration of ownership which shall be
13 retained by the police department or sheriff's office.

14 D. As additional consideration for the agreement, the State of
15 Oklahoma shall agree not to file an information if the accused
16 satisfactorily completes the conditions of the agreement.

17 E. The agreement between the accused and the State of Oklahoma
18 may include provisions whereby the accused agrees to be supervised
19 in the community. If the accused is required to be supervised
20 pursuant to the terms of the agreement, the person shall be required
21 to pay a supervision fee to be established by the supervisory
22 agency. The supervision fee shall be paid to the supervisory agency
23 as required by the rules of the supervisory agency. The supervisory
24 agency shall monitor the person for compliance with the conditions

1 of the agreement. The supervisory agency shall report to the
2 district attorney on the progress of the accused, and shall report
3 immediately if the accused fails to report or participate as
4 required by the agreement.

5 F. The agreement between the parties may require the accused to
6 participate or consult with local service providers, including the
7 Department of Human Services, the Department of Mental Health and
8 Substance Abuse Services, the Employment Security Commission,
9 federal services agencies, other state or local agencies, colleges,
10 universities, technology center schools, and private or charitable
11 service organizations. When the accused is required to participate
12 or consult with any service provider, a program fee may be required
13 unless the fee would impose an unnecessary hardship on the person.
14 The program fee shall be established by the service provider based
15 upon a sliding scale. Any state agency called upon for assistance
16 in a deferred prosecution program by any district attorney shall
17 render services and assistance as available. Any supervision fee or
18 program fee authorized by this section may be waived in whole or in
19 part when the accused is indigent. No person who is otherwise
20 qualified for a deferred prosecution program shall be denied
21 services or supervision based solely on the person's inability to
22 pay a fee or fees.

23 G. The agreement between the parties may require the accused to
24 complete an educational requirement of a minimum of twenty-four (24)

1 credits at a local community college and complete a life skills
2 program and a student support program. When the accused is required
3 to participate in educational requirements, the accused must meet
4 all eligibility requirements for federal student aid in the form of
5 a Pell Grant.

6 H. The agreement between the parties may require the accused to
7 pay a victim compensation assessment pursuant to the provisions of
8 Section 142.18 of Title 21 of the Oklahoma Statutes. The amount of
9 the assessment shall be agreed to by the parties and shall be within
10 the amounts specified in Section 142.18 of Title 21 of the Oklahoma
11 Statutes for the offense charged.

12 ~~H.~~ I. Any deferred prosecution agreement including, but not
13 limited to, any fee, sliding scale fee, compensation, contract,
14 assessment, or other financial agreement charged or waived by the
15 accused or the State of Oklahoma shall be a record open to the
16 public.

17 ~~H.~~ J. 1. On or after the effective date of this act, each
18 office of the district attorney shall, upon request and within a
19 reasonable time, provide the name and other identifying information
20 of an accused entering into a deferred prosecution agreement.

21 2. A deferred prosecution agreement entered into prior to the
22 effective date of this act shall not be a record open to the public,
23 unless confidentiality was waived as a condition of the agreement.
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1 SECTION 2. This act shall become effective November 1, 2016.

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