

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1726

By: Moore

AS INTRODUCED

An Act relating to motor vehicle insurance; amending Section 2, Chapter 365, O.S.L. 2016 (47 O.S. Supp. 2016, Section 7-606.2), which relates to the Uninsured Vehicle Enforcement Diversion Program; eliminating the Uninsured Vehicle Enforcement Diversion Program; authorizing continued administration of Uninsured Vehicle Enforcement Diversion Program Fund for certain period; limiting uses of fund monies; repealing Section 1, Chapter 365, O.S.L. 2016, (47 O.S. Supp. 2016, Section 7-606.1), which relates to the Uninsured Vehicle Enforcement Diversion Program; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 365, O.S.L. 2016 (47 O.S. Supp. 2016, Section 7-606.2), is amended to read as follows:

Section 7-606.2 A. ~~Each district attorney may create within the district attorney's office an Uninsured Vehicle Enforcement Diversion Program and assign sufficient staff and resources for the efficient operation of the program. The purpose of the Uninsured Vehicle Enforcement Diversion Program is to authorize the district~~

~~attorney to divert complaints involving the failure to comply with mandatory vehicle liability insurance coverage from criminal court to the Uninsured Vehicle Enforcement Diversion Program and to enhance public safety and security through increased compliance with mandatory vehicle liability insurance coverage.~~

~~B. 1. Referral of a criminal complaint to the Uninsured Vehicle Enforcement Diversion Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute Compulsory Insurance Law complaints.~~

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

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

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

~~b. whether it is in the best interest of the accused for the accused person to be processed through deferred prosecution in the Uninsured Vehicle Enforcement Diversion Program,~~

~~c. the prospects for adequate protection of the public if the accused person is processed through deferred~~

~~prosecution in the Uninsured Vehicle Enforcement
Diversion Program,~~

~~d. the number of criminal complaints against the
defendant previously received by the district
attorney,~~

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

~~f. the strength of the evidence of the particular
criminal complaint.~~

~~C. Upon referral of a complaint to the Uninsured Vehicle
Enforcement Diversion Program, a notice of the complaint shall be
forwarded by mail to the last known address of the record owner of
the vehicle. The notice shall contain:~~

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

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

~~3. A statement that the records of the State of Oklahoma
indicate that the owner of the vehicle is not in compliance with the
provisions of the Compulsory Vehicle Insurance Law and that the
complaint against the owner has been referred to the Uninsured
Vehicle Enforcement Diversion Program; and~~

~~4. The date before which the owner must contact the office of
the district attorney concerning the complaint.~~

1 ~~D. If the owner fails to comply with the letter, the district~~
2 ~~attorney may file the information and proceed with the prosecution~~
3 ~~of the owner as provided by law.~~

4 ~~E. The district attorney may enter into a written agreement~~
5 ~~with the owner pursuant to the provisions of Sections 305.1 through~~
6 ~~305.6 of Title 22 of the Oklahoma Statutes to defer prosecution on~~
7 ~~the complaint for a period to be determined by the district~~
8 ~~attorney, not to exceed two (2) years. The conditions of an~~
9 ~~agreement to defer prosecution shall include:~~

10 ~~1. The owner shall provide verification of current insurance~~
11 ~~upon request of the district attorney;~~

12 ~~2. The owner shall comply with the provisions of the Compulsory~~
13 ~~Insurance Law for the full term of the agreement; and~~

14 ~~3. The owner shall not own or operate any vehicle in violation~~
15 ~~of the Compulsory Insurance Law during the full term of the~~
16 ~~agreement.~~

17 ~~F. Each diversion agreement shall include a provision requiring~~
18 ~~the owner to pay to the district attorney's office or District~~
19 ~~Attorneys Council a fee equal to the amount which would have been~~
20 ~~assessed as court costs upon the filing of the case in district~~
21 ~~court pursuant to the provisions of Section 153 of Title 28 of the~~
22 ~~Oklahoma Statutes. This fee shall be deposited in From November 1,~~
23 ~~2016, through June 30, 2019, the District Attorneys Council and the~~
24 ~~county treasurer of each county may create and administer a special~~

1 district attorney fund ~~with the county treasurer~~ to be known as the
2 "Uninsured Vehicle Enforcement Diversion Program Fund". ~~Diversion~~
3 ~~fees paid to the District Attorneys Council shall be deposited in a~~
4 ~~special fund to be known as the "Uninsured Vehicle Enforcement~~
5 ~~Diversion Program Fund".~~

6 1. ~~Each diversion agreement shall also include a provision~~
7 ~~requiring the owner to pay an additional fee of Twenty Dollars~~
8 ~~(\$20.00) to the District Attorneys Council, of which Five Dollars~~
9 ~~(\$5.00) will be used in processing the payment, Ten Dollars (\$10.00)~~
10 ~~will be used in operating and maintaining the Compulsory Insurance~~
11 ~~Verification System and Five Dollars (\$5.00) will be deposited in~~
12 ~~the Oklahoma Pension Improvement Revolving Fund created by section 2~~
13 ~~of Enrolled Senate Bill No. 1128 of the 2nd Session of the 55th~~
14 ~~Oklahoma Legislature.~~

15 2. The monies deposited in the Uninsured Vehicle Enforcement
16 Diversion Program Fund of a district attorney or the District
17 Attorneys Council shall be used by the district attorney and
18 District Attorneys Council to pay for all expenses and costs of
19 ~~equipping, operating and monitoring the vehicle insurance program,~~
20 ~~including but not limited to, contractual payments to third-party~~
21 ~~entities providing essential services and/or equipment for detection~~
22 ~~of violations of Compulsory Insurance Law, and payment of reasonable~~
23 ~~compensation to authorized and participating law enforcement~~

1 ~~agencies as may be agreed between such entities, law enforcement~~
2 ~~agencies and the district attorney or District Attorneys Council.~~

3 ~~3. Proceeds from the Uninsured Vehicle Enforcement Diversion~~
4 ~~Program administered by the District Attorneys Council may be used~~
5 ~~to pay for any lawful expenditures associated with the operation of~~
6 ~~the diversion program by the District Attorneys Council. The net~~
7 ~~proceeds shall be allocated and distributed to the district~~
8 ~~attorneys by the District Attorneys Council. District attorneys may~~
9 ~~use proceeds from this diversion program to pay for any lawful~~
10 ~~expenditure associated with the operation of the district attorney's~~
11 ~~office.~~

12 ~~4. The district attorney and District Attorneys Council shall~~
13 ~~keep records of all monies deposited to and disbursed from the~~
14 ~~Uninsured Vehicle Enforcement Diversion Program Fund. The records~~
15 ~~of these funds shall be audited at the same time the records of the~~
16 ~~district attorney and District Attorneys Council, respectively, are~~
17 ~~audited.~~

18 ~~5. If the owner furnishes proof to the satisfaction of the~~
19 ~~district attorney's office or District Attorneys Council that the~~
20 ~~required vehicle liability insurance coverage was in effect at the~~
21 ~~time of the alleged violation, no fee shall be required.~~

22 ~~G. Members of the district attorney's staff shall perform~~
23 ~~duties in connection with the Uninsured Vehicle Enforcement~~
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~~Diversion Program in addition to any other duties which may be assigned by the district attorney.~~

~~H. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Uninsured Vehicle Enforcement Diversion Program. Each district attorney shall submit information requested by the District Attorneys Council regarding the Uninsured Vehicle Enforcement Diversion Program.~~

~~By September 15 of each year following the implementation of the Uninsured Vehicle Enforcement Program, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Uninsured Vehicle Enforcement Diversion Program. An electronic copy of the report shall be distributed to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. The report required by this paragraph shall include the number of cases processed, the total amount of fees collected, the total cost of the program and such other information as required by the District Attorneys Council.~~

SECTION 2. REPEALER Section 1, Chapter 365, O.S.L. 2016, (47 O.S. Supp. 2016, Section 7-606.1), is hereby repealed.

SECTION 3. This act shall become effective November 1, 2017.

56-1-6515 JM 12/13/16