An Act

ENROLLED HOUSE
BILL NO. 2902

By: Loring, Sherrer, McCullough and Biggs of the House

and

David, Matthews and Brooks of the Senate

An Act relating to public health and safety; authorizing district attorneys to create a Drug Possession Diversion Program; providing for referrals to the program; providing factors to be considered in referring cases to the program; allowing district attorneys to enter into certain written agreements; requiring participants to pay fees; providing for the deposit of fees into certain fund; directing fees be used for certain purposes; requiring certain records be kept and audited; requiring supervision; authorizing the filing of criminal charges for noncompliance; allowing staff of district attorney to perform duties related to program; directing district attorneys to prepare and submit certain report; requiring publication of report by date certain; providing for distribution of 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.

SUBJECT: Drug Possession Diversion Program

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

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

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

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

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

3. If the defendant has a prior criminal record;

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

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

6. The strength of the evidence against the defendant.

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

A. Subject to the provisions of this act, the district attorney may enter into a written agreement with the defendant pursuant to the provisions of Sections 305.1 through 305.6 of Title 22 of the

Oklahoma Statutes to defer prosecution of a charge for possession of a controlled dangerous substance, possession of drug paraphernalia or both possession of a controlled dangerous substance and possession of drug paraphernalia for a period to be determined by the district attorney, not to exceed twenty-four (24) months.

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

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

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

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

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

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

B. By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Drug Possession Diversion Program. An electronic copy of the report shall be distributed to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the chairs of the House

and Senate Appropriation and Budget Committees. Each district attorney shall submit information requested by the District Attorneys Council regarding the Drug Possession Diversion Program. The report shall include the number of charges referred to and accepted into the Drug Possession Diversion Program, the total amount of fees collected and such other information as required by the District Attorneys Council.

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

Passed the House of Representatives the 2nd day of May, 2016.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 3rd

day of May, 2016, at 10:45 o'clock A M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 9th

day of May, 2016, at 1:20 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 9th

day of May, 2016, at 2:44 o'clock P. M.

By: Chris Benge