

1                                   **SENATE FLOOR VERSION**

2                                   February 11, 2020

3                                   **AS AMENDED**

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6                                   SENATE BILL NO. 1102

By: Standridge

7                                   **[ deferred prosecution programs - guidelines and**  
8                                   **factors - requirements for participation - fees -**  
9                                   **effective date ]**

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

11                                  SECTION 1.            AMENDATORY            22 O.S. 2011, Section 305.1, is  
12                                  amended to read as follows:

13                                  Section 305.1. A. Before the filing of an information against  
14                                  a person accused of committing a crime, the State of Oklahoma,  
15                                  through its district attorney, may agree with an accused to defer  
16                                  the filing of a criminal information for a period not to exceed  
17                                  three (3) years.

18                                  The State of Oklahoma may include any person in a deferred  
19                                  prosecution program if it is in the best interests of the accused  
20                                  and not contrary to the public interest. Each district attorney  
21                                  shall adopt and promulgate guidelines which shall indicate what  
22                                  factors shall be considered in including an accused in the deferred  
23                                  prosecution program. The guidelines shall ~~insure~~ ensure that the  
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1 State of Oklahoma considers in each case at least the following  
2 factors:

3 1. Whether the State of Oklahoma has sufficient evidence to  
4 achieve conviction;

5 2. The nature of the offense with priority given to first  
6 offenders and nonviolent crimes;

7 3. Any special characteristics of the accused;

8 4. Whether the accused will cooperate and benefit from a  
9 deferred prosecution program;

10 5. Whether available programs are appropriate to the accused  
11 person's needs;

12 6. Whether the services for the accused are more readily  
13 available from the community or from the corrections system;

14 7. Whether the accused constitutes a substantial danger to  
15 others;

16 8. The impact of the deferred prosecution on the community;

17 9. The recommendations of the law enforcement agency involved  
18 in the case;

19 10. The opinions of the victim; and

20 11. Any mitigating or aggravating circumstances.

21 B. The State of Oklahoma, in the discretion of the district  
22 attorney, may include a person accused of committing the offense of  
23 domestic abuse or domestic assault as defined by Section 644 of  
24 Title 21 of the Oklahoma Statutes in a deferred prosecution program.

1 The accused shall participate in the same counseling or other  
2 treatment as required by paragraph 2 of subsection G of Section 644  
3 of Title 21 of the Oklahoma Statutes; provided, however, the accused  
4 shall participate in the required counseling or treatment for a  
5 minimum of ninety (90) days and shall not reside in the same  
6 household as the victim nor have any contact with the victim or  
7 victim's immediate family or other household member for the duration  
8 of the counseling or treatment. The accused shall pay all  
9 supervisory, program and other fees as required pursuant to Section  
10 305.2 of this title. An accused shall be eligible one time only for  
11 participation in a deferred prosecution program pursuant to this  
12 subsection.

13 SECTION 2. This act shall become effective November 1, 2020.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
15 February 11, 2020 - DO PASS AS AMENDED  
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