

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 ENGROSSED SENATE
5 BILL NO. 1102

By: Standridge of the Senate

and

West (Kevin) of the House

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9 [deferred prosecution programs - guidelines and
10 factors - requirements for participation - fees -
11 effective date]

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

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

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

21 The State of Oklahoma may include any person in a deferred
22 prosecution program if it is in the best interests of the accused
23 and not contrary to the public interest. Each district attorney
24 shall adopt and promulgate guidelines which shall indicate what

1 factors shall be considered in including an accused in the deferred
2 prosecution program. The guidelines shall ~~insure~~ ensure that the
3 State of Oklahoma considers in each case at least the following
4 factors:

5 1. Whether the State of Oklahoma has sufficient evidence to
6 achieve conviction;

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

9 3. Any special characteristics of the accused;

10 4. Whether the accused will cooperate and benefit from a
11 deferred prosecution program;

12 5. Whether available programs are appropriate to the accused
13 person's needs;

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

16 7. Whether the accused constitutes a substantial danger to
17 others;

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

19 9. The recommendations of the law enforcement agency involved
20 in the case;

21 10. The opinions of the victim; and

22 11. Any mitigating or aggravating circumstances.

23 B. The State of Oklahoma, in the discretion of the district
24 attorney, may include a person accused of committing the offense of

1 domestic abuse or domestic assault as defined by Section 644 of
2 Title 21 of the Oklahoma Statutes in a deferred prosecution program.
3 The accused shall participate in the same counseling or other
4 treatment as required by paragraph 2 of subsection G of Section 644
5 of Title 21 of the Oklahoma Statutes; provided, however, the accused
6 shall participate in the certified batterers' intervention program
7 (BIP) for the required fifty-two (52) weeks and shall not reside in
8 the same household as the victim nor have any contact with the
9 victim, children residing in the home, victim's immediate family or
10 other household member for, at a minimum, the first ninety (90) days
11 of the counseling or BIP treatment. The accused shall pay all
12 supervisory, program and other fees as required pursuant to Section
13 305.2 of this title. An accused shall be eligible one time only for
14 participation in a deferred prosecution program pursuant to this
15 subsection.

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

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18 DIRECT TO CALENDAR.
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