**Oklahoma 2014 Statutes Title 22**

**Criminal Procedure**

**22-991f-1.1 Restitution and Diversion Program – Evaluation of criminal complaints for deferred prosecution - Restitution agreement – Definitions.**

A. Each district attorney shall create within the district attorney’s office a Restitution and Diversion Program and assign sufficient staff and resources for the efficient operation of such program. The purpose of the Restitution and Diversion Program is to allow the district attorney the discretion to divert criminal complaints involving property crimes from criminal court and to monitor restitution payments. At the discretion of the district attorney, the program may be administered by the Bogus Check Restitution Program operated by the county.

B. 1. Referral of a criminal complaint to the Restitution and Diversion Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute criminal complaints.

2. Upon receipt of a criminal complaint involving property, 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 Restitution and Diversion Program, the district attorney shall consider the following factors:

a. whether the criminal complaint alleges an offense involving property,

b. whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,

c. the prospects for adequate protection of the public if the accused person is processed through deferred prosecution in the Restitution and 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,

f. the strength of the evidence of the particular criminal complaint, and

g. the wishes of the victim.

C. Upon referral of a complaint to the Restitution and Diversion Program, a notice of the complaint shall be forwarded by mail to the accused person. The notice shall contain:

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

2. The name of the victim;

3. The date before which the accused person must contact the office of the district attorney concerning the complaint; and

4. A statement of the penalty for the crime which is the subject of the complaint.

D. The district attorney may enter into a written agreement with the accused person to defer prosecution on the criminal complaint for a period to be determined by the district attorney, not to exceed three (3) years pending restitution being made to the victim of the complaint and payment of necessary fees.

E. Each restitution agreement shall include a provision requiring the accused person to pay to the district attorneys office a fee equal to the amount which would have been assessed as court costs upon the filing of the case in district court plus Twenty-five Dollars ($25.00) for each criminal complaint covered by the agreement. This fee may be deposited in a special fund with the county treasurer to be known as the ‘Restitution and Diversion Program Fund’ or in the Bogus Check Restitution Fund. The monies deposited in the Restitution and Diversion Program Fund shall be used by the district attorney to make any lawful expenditure associated with the district attorney’s office. The district attorney shall keep records of all monies deposited to and disbursed from these funds. The records of these funds shall be audited at the same time the records of county funds are audited.

F. 1. Restitution to be paid by the accused person to the victim shall include out-of-pocket expenses the victim incurred as a direct result of the crime having been committed. A restitution agreement may include provisions for restitution in an amount up to treble the amount of property involved except such restitution shall not apply to false or bogus checks. If, instead of paying restitution directly to the victim, the accused person delivers restitution funds to the office of the district attorney, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the victim by a warrant signed by the district attorney or a member of the district attorney’s staff assigned to the Restitution and Diversion Program. The district attorney shall keep full records of all restitution monies received and disbursed. These records shall be audited at the same time the county funds are audited;

2. If the accused person fails to comply with the provisions of the Restitution and Diversion Program agreement, the district attorney may file an information and proceed with the prosecution of the accused person as provided by law.

G. Members of the district attorney’s staff shall perform duties in connection with the Restitution and Diversion Program in addition to any other duties which may be assigned by the district attorney.

H. 1. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Restitution and Diversion Program.

2. By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Restitution and Diversion Program. A copy of the report shall be distributed to the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. Each district attorney shall submit information requested by the District Attorneys Council regarding the Restitution and Diversion Program. This report shall include the number of cases processed, the total dollar amount for which restitution was made, the total amount of the restitution collected, the total amount of fees collected, the total cost of the program, and such other information as required by the District Attorneys Council.

I. For the purposes of the Restitution and Diversion Program, the following definitions shall apply:

1. “Property Crime” shall include, but not be limited to the following:

a. embezzlement offenses,

b. larceny offenses,

c. theft offenses,

d. malicious injury to property, and

e. any offense which results in economic loss, but does not result in physical injury to another human being, and which is not enumerated in Section 571 of Title 57 of the Oklahoma Statutes;

2. “Victim” is defined by Section 991f of this title;

3. “Restitution” is defined by Section 991f of this title; and

4. “Economic loss’ is defined by Section 991f of this title.

J. The victim shall promptly provide to the Restitution and Diversion Program all documentation and evidence of compensation or reimbursement from insurance companies or agencies of this state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss.

Added by Laws 2001, c. 437 § 22, eff. July 1, 2001. Amended by Laws 2009, c. 93, § 2, eff. Nov. 1, 2009.