

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2163

By: Hamilton (Jeff)

AS INTRODUCED

An Act relating to criminal procedures; amending 22 O.S. 1991, Section 1175.6, which relates to dispositional orders; modifying dispositional orders for placement in maximum security mental wards; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1175.6, is amended to read as follows:

Section 1175.6 A. Upon the finding by the jury or the court as provided by Section 1175.5 of this title, the court shall issue the appropriate order regarding the person.

1. If the person is found to be competent, the criminal proceedings shall be resumed;

2. If the person is found to be incompetent, but capable of achieving competence with treatment, therapy, or training, the court shall remand the person to the Department of Mental Health and Substance Abuse Services, the Department of Human Services, other appropriate state agencies or a private care provider for appropriate treatment, therapy, or training;

3. If the person is found to be incompetent and not capable of achieving competency within a reasonable period of time, and a person requiring treatment as defined by Title 43A of the Oklahoma Statutes, then the court shall order treatment as if there had been a finding pursuant to Title 43A of the Oklahoma Statutes that the defendant was a mentally ill person requiring treatment, without any further proceedings, and shall suspend the criminal proceeding. The Department of Mental Health and Substance Abuse Services or other agency providing treatment to the person or the institution wherein the person is confined or treated shall make periodic reports to the court as to the competency of the defendant. If the agency or institution reports that the person appears to have achieved competency, the court shall hold another competency hearing to determine if the person has achieved competency. If competency has been achieved, the criminal proceeding shall be resumed; and

4. If the person is found to be incompetent, and not capable of achieving competency within a reasonable period of time, but is not a person requiring treatment as defined by Title 43A of the Oklahoma Statutes and is not a threat to himself or society, the court shall ~~remand the person to the Department of Human Services for assistance, subject to assistance from any other appropriate state agencies and shall suspend the criminal proceedings,~~ subject to the person's eligibility and the availability of services as determined by the Department of Human Services, refer the person to DHS for assistance, subject to assistance from any other appropriate state agencies and shall suspend the criminal proceedings. The Department of Human Services shall make periodic reports to the court as to the status and activities of the person. If the Department of Human Services reports that the person appears to have achieved competency, the court shall hold another competency hearing to determine if the person has achieved competency. If competency has been achieved, the criminal proceeding shall be resumed.

B. Any person arrested and charged with a criminal offense which is punishable by death, life imprisonment or life imprisonment without parole, who is found to be incompetent by the court and ordered into the custody of the Department of Mental Health and Substance Abuse Services pursuant to paragraphs 2 or 3 of subsection A of this section, shall be placed in a maximum security ward of the mental health facility designated by the Department of Mental Health and Substance Abuse Services until such time as said person is adjudicated to be competent or is adjudicated no longer determined to be a threat to any other person.

SECTION 2. This act shall become effective September 1, 1994.

44-2-7934

KSM