

SHORT TITLE: Criminal procedure and mental health; competency evaluations and Western State Hospital at Fort Supply; emergency.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 252

By: Williams (Don)

AS INTRODUCED

An Act relating to criminal procedure and mental health; amending 22 O.S. 1991, Section 1175.3, which relates to determination of competency procedures, and 43A O.S. 1991, Section 3-111, which relates to Western State Hospital at Fort Supply; modifying method of determining competency; requiring certain entities to enter into cooperative agreements to provide certain services; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1175.3, is amended to read as follows:

Section 1175.3 A. Upon filing of an application for determination of competency, the court shall set a hearing date, which shall be as soon as practicable, but at least one (1) day after service of notice as provided by Section 1175.2 of this title.

B. The court shall hold a hearing on the date provided. At the hearing, the court shall examine the application for determination of competency to determine if it alleges facts sufficient to raise a doubt as to the competency of the person. Any additional evidence tending to create a doubt as to the competency of the person may be presented at this hearing.

C. If the court finds there is no doubt as to the competency of the person, it shall order the criminal proceedings to resume.

D. If the court finds there is a doubt as to the competency of the person, it shall order the person to be examined by doctors or appropriate technicians. The doctors or technicians shall be practitioners in the appropriate branch of medicine relevant to the alleged incompetency of the person. The person ~~may~~ shall be examined on an outpatient ~~or inpatient~~ basis, as ordered by the court. The court may commit the person to the custody of the Department of Mental Health and Substance Abuse Services or any other state agency or private facility for the examination provided by this act. The person shall be required to undergo examination for a period of time sufficient for the doctor or doctors or technicians to reach a conclusion as to competency, and the court shall impose a reasonable time limitation for such period of examination. If the court determines that the person whose competency is in question may be a threat to the safety of himself or others, it shall order the person retained in a secure facility until the completion of the competency hearing provided in Section 1175.4 of this title.

E. The doctor or doctors shall receive instructions that they shall examine the patient to determine:

1. Is this person able to appreciate the nature of the charges against him?

2. Is this person able to consult with his lawyer and rationally assist in the preparation of his defense?

3. If the answer to question 1 or 2 is no, can the person attain competency within a reasonable time if provided with a course of treatment, therapy or training?

4. Is the person a mentally ill person or a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes?

5. If the person were released without treatment, therapy or training, would he probably pose a significant threat to the life or safety of himself or others?

SECTION 2. AMENDATORY 43A O.S. 1991, Section 3-111, is amended to read as follows:

Section 3-111. A. The provisions of this section shall not become effective until funding to implement this section is authorized by the Legislature.

B. Except as provided in subsection C of this section, the land, and all buildings and equipment attached thereto, at Western State Hospital at Fort Supply, Oklahoma, shall be transferred from the Department of Mental Health and Substance Abuse Services to the Department of Corrections. The transfer shall be of surface rights only and all interest in mineral rights shall be retained by the Department of Mental Health and Substance Abuse Services. The transferred land shall be used for a correctional institution to incarcerate prisoners of minimum security classification.

C. The Department of Mental Health and Substance Abuse Services shall retain the following land, all buildings and equipment attached thereto, which shall comprise Western State Hospital:

Beginning at a point 732 ft. North and 33.0 ft. East of the 1/4 section corner common to Sections 8 and 9, T-24-N, R-22-W, thence N89 37 26E, 3877.0 ft., thence S02 07 26W, 318.0 ft., thence N75 55 34W, 115 ft., thence S42 17 05W, 85.0 ft., thence S13 46 36W, 228.0 ft., thence N76 13 24W, 122.0 ft., thence S14 06 36W, 230.0 ft., thence N75 53 24W, 163.0 ft., thence S13 56 36W, 185.0 ft., thence N76 03 24W, 220.0 ft., thence S84 31 16W, 378.0 ft., thence S22 09 00W, 347.0 ft., to the North R/W line of S.H.3, thence N67 51 00W along said R/W line 2601.99 ft. to the P.C. of a curve, thence 142.19 ft. along a curve to the left having a radius of 1959.86 ft., said point being on the East R/W line of the N and S section line,

thence N00 16 54W along said R/W line 157.16 ft. to the point of beginning. Said described tract contains 61.70 acres more or less.

D. The Department of Corrections and the Department of Mental Health and Substance Abuse Services shall enter into cooperative agreements to provide to Western State Hospital,~~at no cost to the Department of Mental Health and Substance Abuse Services,~~ the following services:

1. Security personnel;
2. Utilities;
3. Water;
4. Sewage;
5. Maintenance of grounds;
6. Electrical maintenance and repair;
7. Carpentry;
8. Printing;
9. Caustic storage;
10. Warehouse facilities;
11. Food service;
12. Laundry service;
13. Sewing;
14. Dental services;
15. Switchboard services;
16. Use of motor pool;
17. Cost and statistics; ~~and~~
18. Supplies, other than pharmaceuticals and laboratory

supplies-;

~~E. The Department of Mental Health and Substance Abuse Services shall provide to the correctional institution located at Fort Supply, Oklahoma, at no cost to the Department of Corrections, the following services:~~

- ~~1.~~ 19. Inpatient infirmary services;
- ~~2.~~ 20. Pharmacy;

~~3.~~ 21. Professional services for treatment alternatives for drinking drivers; and

~~4.~~ 22. Professional services for the Youthful Offender Program.

~~F.~~ E. The Department of Mental Health and Substance Abuse Services and the Department of Corrections jointly shall provide fire fighting services for Western State Hospital, the correctional institution at Fort Supply, Oklahoma, and the surrounding community.

~~G.~~ F. All official records pertaining to the operation of Western State Hospital shall be retained by the Department of Mental Health and Substance Abuse Services. All inventory not needed for the operation of Western State Hospital shall be transferred to the Department of Corrections.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-0405

CJ