

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR
5 SENATE BILL NO. 715

By: Smalley

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to determinations of competency;
9 amending 22 O.S. 2011, Section 1175.6a, which relates
10 to suspension of criminal proceedings; requiring
11 courts to remand certain persons under certain
12 circumstances; providing for certain treatments by
13 the Department of Mental Health and Substance Abuse
14 Services; updating statutory references; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1175.6a, is
18 amended to read as follows:

19 Section 1175.6a A. If the person is found to be incompetent
20 because ~~the person~~ he or she is a person requiring treatment as
21 defined in Section 1-103 of Title 43A of the Oklahoma Statutes, but
22 capable of achieving competence with treatment within a reasonable
23 period of time as defined by Section 1175.1 of this title, the court
24 shall ~~suspend~~ suspend:

1 1. Suspend the criminal proceedings and commit the person to
2 the legal custody of the Department of Mental Health and Substance
3 Abuse Services; or

4 2. Remand the person to the county detention facility.

5 B. When a person is found to be incompetent because he or she
6 is a person requiring treatment as defined by Section 1-103 of Title
7 43A of the Oklahoma Statutes, the person shall, pursuant to a
8 recommendation by the Department, receive an initial competency
9 attainment treatment in the legal custody of the Department or in
10 the county detention facility. Initial competency attainment
11 treatments conducted in a county detention facility shall be
12 provided by the Department.

13 1. The Department of Mental Health and Substance Abuse Services
14 shall make periodic reports to the court as to the competency of the
15 defendant.

16 2. If the person is determined by the Department of Mental
17 Health and Substance Abuse Services to have regained competency, or
18 is no longer incompetent because the person is a person requiring
19 treatment as defined by Title 43A of the Oklahoma Statutes, a
20 hearing shall be scheduled within twenty (20) days:

21 a. if found competent by the court or a jury after such
22 rehearing, criminal proceedings shall be resumed,

23 b. if the person is found to continue to be incompetent
24 because the person is a person requiring treatment as

1 defined in Title 43A of the Oklahoma Statutes, the
2 person shall be returned to the custody of the
3 Department of Mental Health and Substance Abuse
4 Services,

5 c. if the person is found to be incompetent because the
6 person is mentally retarded as defined by Title 10 of
7 the Oklahoma Statutes, the court shall issue the
8 appropriate order as set forth in Section 7 of this
9 act,

10 d. if the person is found to be incompetent for reasons
11 other than the person is a person requiring treatment
12 as defined by Title 43A of the Oklahoma Statutes, and
13 other than the person is mentally retarded as defined
14 in Title 10 of the Oklahoma Statutes, and is also
15 found to be not dangerous as defined by Section 1175.1
16 of this title, the court shall issue the appropriate
17 order as set forth in Section 7 1175.6b of this ~~act~~
18 title,

19 e. if the person is found to be incompetent for reasons
20 other than the person is a person requiring treatment
21 as defined by Title 43A of the Oklahoma Statutes, and
22 other than the person is mentally retarded as defined
23 in Title 10 of the Oklahoma Statutes, but is also
24 found to be dangerous as defined by Section 1175.1 of

1 this title, the court shall issue the appropriate
2 order as set forth in Section § 1175.6c of this ~~act~~
3 title.

4 ~~B.~~ C. If the person is found to be incompetent because the
5 person is a person requiring treatment as defined by Section 1-103
6 of Title 43A of the Oklahoma Statutes, but not capable of achieving
7 competence with treatment within a reasonable period of time as
8 defined by Section 1175.1 of this title, the court shall commence
9 civil commitment proceedings pursuant to Title 43A and shall dismiss
10 without prejudice the criminal proceeding. If the person is
11 subsequently committed to the Department of Mental Health and
12 Substance Abuse Services pursuant to Title 43A, the statute of
13 limitations for the criminal charges which were dismissed by the
14 court shall be tolled until the person is discharged from the
15 Department of Mental Health and Substance Abuse Services pursuant to
16 Section 7-101 of Title 43A of the Oklahoma Statutes.

17 SECTION 2. This act shall become effective November 1, 2015.

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