

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3283

By: Kannady

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 1007, which relates to procedures for entering verdicts in death penalty cases; directing the Department of Mental Health and Substance Abuse Services to provide competency restoration services for certain defendants; authorizing the Department to designate entities to provide competency restoration services; amending 22 O.S. 2011, Section 1175.6a, as amended by Section 2, Chapter 300, O.S.L. 2015 (22 O.S. Supp. 2017, Section 1175.6a), which relates to procedures for competency hearings and civil commitment proceedings; clarifying competency procedures for preconviction defendants; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1007, is amended to read as follows:

Section 1007. The verdict of the jury must be entered upon the minutes and thereupon the court must make and cause to be entered an order reciting the fact of such inquiry and the result thereof, and when it is found that the defendant is ~~insane~~ not competent because he or she is a person requiring treatment, as defined in Section 1-103 of Title 43A of the Oklahoma Statutes, the court shall order

1 ~~must direct that he be taken to one of the state hospitals for the~~
2 ~~insane and there kept for safe confinement until his reason is~~
3 ~~restored~~ the Department of Mental Health and Substance Abuse
4 Services to provide, where the defendant is currently incarcerated,
5 treatment, therapy or training which is calculated to allow the
6 defendant to achieve competency. The Department of Mental Health
7 and Substance Abuse Services may designate a willing entity to
8 provide such competency restoration services on behalf of the
9 Department, provided the entity has qualified personnel.

10 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1175.6a, as
11 amended by Section 2, Chapter 300, O.S.L. 2015 (22 O.S. Supp. 2017,
12 Section 1175.6a), is amended to read as follows:

13 Section 1175.6a. A. If the person is found to be incompetent
14 prior to conviction because he or she is a person requiring
15 treatment as defined in Section 1-103 of Title 43A of the Oklahoma
16 Statutes, but capable of achieving competence with treatment within
17 a reasonable period of time as defined by Section 1175.1 of this
18 title, the court shall suspend the criminal proceedings and order
19 the Department of Mental Health and Substance Abuse Services to
20 provide treatment, therapy or training which is calculated to allow
21 the person to achieve competency. The Department may designate a
22 willing entity to provide such competency restoration services on
23 behalf of the Department, provided the entity has qualified
24 personnel. The court shall further order the Department to take

1 custody of the individual as soon as a forensic bed becomes
2 available, unless both the Department and the county jail where the
3 person is being held determine that it is in the best interests of
4 the person to remain in the county jail. Such competency
5 restoration services shall begin within a reasonable period of time
6 after the court has determined that the person is not competent to
7 stand trial.

8 The person shall remain in the custody of the county jail until
9 such time as the Department has a bed available at the forensic
10 facility unless competency restoration services are provided by a
11 designee of the Department, in which case custody of the person
12 shall be transferred to the Department.

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

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

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

23 2. If the person is found to continue to be incompetent because
24 the person is a person requiring treatment as defined in Title 43A

1 of the Oklahoma Statutes, the person shall be returned to the
2 custody of the Department of Mental Health and Substance Abuse
3 Services or designee;

4 3. If the person is found to be incompetent because the person
5 is mentally retarded as defined by Title 10 of the Oklahoma
6 Statutes, the court shall issue the appropriate order as set forth
7 in Section 1175.6b of this title;

8 4. If the person is found to be incompetent for reasons other
9 than the person is a person requiring treatment as defined by Title
10 43A of the Oklahoma Statutes, and other than the person is mentally
11 retarded as defined in Title 10 of the Oklahoma Statutes, and is
12 also found to be not dangerous as defined by Section 1175.1 of this
13 title, the court shall issue the appropriate order as set forth in
14 Section 1175.6b of this title; or

15 5. If the person is found to be incompetent for reasons other
16 than the person is a person requiring treatment as defined by Title
17 43A of the Oklahoma Statutes, and other than the person is mentally
18 retarded as defined in Title 10 of the Oklahoma Statutes, but is
19 also found to be dangerous as defined by Section 1175.1 of this
20 title, the court shall issue the appropriate order as set forth in
21 Section 1175.6c of this title.

22 D. If the person is found to be incompetent because the person
23 is a person requiring treatment as defined by Section 1-103 of Title
24 43A of the Oklahoma Statutes, but not capable of achieving

1 competence with treatment within a reasonable period of time as
2 defined by Section 1175.1 of this title, the court shall commence
3 civil commitment proceedings pursuant to Title 43A and shall dismiss
4 without prejudice the criminal proceeding. If the person is
5 subsequently committed to the Department of Mental Health and
6 Substance Abuse Services pursuant to Title 43A, the statute of
7 limitations for the criminal charges which were dismissed by the
8 court shall be tolled until the person is discharged from the
9 Department of Mental Health and Substance Abuse Services pursuant to
10 Section 7-101 of Title 43A of the Oklahoma Statutes.

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

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16 56-2-8395 GRS 12/20/17

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