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February 12, 2019

By: Newhouse

An Act relating to the Oklahoma Juvenile Code; amending Section 6, Chapter 398, O.S.L. 2015 (10A O.S. Supp. 2018, Section 2-2-401.6), which relates to competency hearing; authorizing use of videoconference for certain hearing; and providing an effective date.

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

SECTION 1. AMENDATORY Section 6, Chapter 398, O.S.L.
2015 (10A O.S. Supp. 2018, Section 2-2-401.6), is amended to read as
follows:

Section 2-2-401.6. A. Not more than fifteen (15) judicial days after receiving the evaluator's report, the court shall conduct a hearing to determine the child's competency to participate in the proceeding. The court may continue the hearing for good cause shown.

B. The competency evaluation report shall be admissible in evidence. The evaluator may be called as a witness and be subject to cross examination by all parties. If authorized by the court, hearings held pursuant to this section may be conducted via teleconference or videoconference. If the court contacts the

1 evaluator to obtain clarification of the report contents, the court
2 shall promptly inform all parties and allow each party to
3 participate in each contact.

4 C. In determining the competency of the child to participate in
5 the proceeding the court shall consider the content of all
6 competency evaluation reports admitted as evidence. The court may
7 consider additional evidence introduced at the hearing by the
8 district attorney and the child's attorney.

9 D. 1. Except as otherwise provided, the court shall make a
10 written determination as to the child's competency based on a
11 preponderance of the evidence within ten (10) judicial days after
12 completion of the hearing. The burden of proof shall be on the
13 moving party.

14 2. The court shall not find a child incompetent to proceed
15 solely because the child is receiving or has received in-patient
16 treatment as a voluntary or involuntary mentally ill patient
17 pursuant to Section 5-501 et seq. of Title 43A of the Oklahoma
18 Statutes, or is receiving or has received psychotropic or other
19 medication, even if the child might become incompetent to proceed
20 without that medication.

21 SECTION 2. This act shall become effective November 1, 2019.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
23 February 12, 2019 - DO PASS
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