

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3646

By: Osburn

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8 COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; amending 22
10 O.S. 2021, Section 1175.6a, which relates to
11 competency proceedings; authorizing the Department of
12 Mental Health and Substance Abuse Services to request
13 Involuntary Administration of Medication hearings
14 under certain circumstances; establishing time
15 limitation for conducting hearings; specifying
16 questions to be asked and answered at hearings;
17 directing courts to issue orders for the involuntary
18 medication of defendants under certain circumstances;
19 providing for the commencement of civil commitment
20 proceedings and dismissal of criminal proceedings
21 under certain circumstances; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1175.6a, is
amended to read as follows:

 Section 1175.6a A. If the person is found to be incompetent
prior to conviction because he or she is a person requiring
treatment as defined in Section 1-103 of Title 43A of the Oklahoma
Statutes, but capable of achieving competence with treatment within

1 a reasonable period of time as defined by Section 1175.1 of this
2 title, the court shall suspend the criminal proceedings and order
3 the Department of Mental Health and Substance Abuse Services to
4 provide treatment, therapy or training which is calculated to allow
5 the person to achieve competency. The Department may designate a
6 willing entity to provide such competency restoration services on
7 behalf of the Department, provided the entity has qualified
8 personnel. The court shall further order the Department to take
9 custody of the individual as soon as a forensic bed becomes
10 available, unless both the Department and the county jail where the
11 person is being held determine that it is in the best interests of
12 the person to remain in the county jail. Such competency
13 restoration services shall begin within a reasonable period of time
14 after the court has determined that the person is not competent to
15 stand trial.

16 The person shall remain in the custody of the county jail until
17 such time as the Department has a bed available at the forensic
18 facility unless competency restoration services are provided by a
19 designee of the Department, in which case custody of the person
20 shall be transferred to the Department.

21 1. If the person is identified by the Department or its
22 designee as refusing to take medications necessary to restore
23 competency, the Department or its designee shall notify the court
24 and the district attorney and request an Involuntary Administration

1 of Medication hearing. Involuntary Administration of Medication
2 hearings shall be held within ten (10) days of any request made by
3 the Department or its designee. The court shall cause the following
4 questions to be answered at the hearing:

5 a. Is the person a danger to themselves or others?

6 b. Is the person charged with a serious crime?

7 c. Is there a compelling governmental interest?

8 d. Will the involuntary administration of medication be
9 substantially likely to render the defendant competent
10 to stand trial?

11 e. Will the involuntary administration of medication be
12 substantially unlikely to have side effects that will
13 interfere significantly with the ability of the
14 defendant to assist counsel in conducting a trial
15 defense?

16 f. Are there any less intrusive treatments that could
17 achieve substantially the same results?

18 g. Is the proposed medication medically appropriate?

19 h. Without medication, will the individual become
20 competent within a reasonable period of time?

21 2. If the court determines that the person is a danger to
22 themselves or others, the court shall issue an order allowing the
23 defendant to be involuntarily medicated to treat the dangerousness
24 of the defendant.

1 3. If the court determines that the person is not a danger to
2 themselves or others, but the court determines the answers to
3 questions in subparagraphs a through e of paragraph 1 of this
4 subsection and subparagraph g of paragraph 1 of this subsection are
5 yes, and determines the answer to the question in subparagraph f of
6 paragraph 1 of this subsection is no, then the court shall issue an
7 order allowing the defendant to be involuntarily medicated to treat
8 the defendant and to help render the defendant competent to stand
9 trial.

10 4. If the court does not issue an order allowing for the
11 defendant to be involuntarily medicated to treat the dangerousness
12 of the defendant, and the court determines that the answer to the
13 question in subparagraph h of paragraph 1 of this subsection is yes,
14 the court shall commence civil commitment proceedings pursuant to
15 Title 43A of the Oklahoma Statutes and shall dismiss without
16 prejudice the criminal proceeding pursuant to subsection D of this
17 section.

18 B. The Department of Mental Health and Substance Abuse Services
19 or designee shall make periodic reports to the court as to the
20 competency of the defendant.

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

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

5 2. If the person is found to continue to be incompetent because
6 the person is a person requiring treatment as defined in Title 43A
7 of the Oklahoma Statutes, the person shall be returned to the
8 custody of the Department of Mental Health and Substance Abuse
9 Services or designee;

10 3. If the person is found to be incompetent because the person
11 is intellectually disabled as defined by Title 10 of the Oklahoma
12 Statutes, the court shall issue the appropriate order as set forth
13 in Section 1175.6b of this title;

14 4. If the person is found to be incompetent for reasons other
15 than the person is a person requiring treatment as defined by Title
16 43A of the Oklahoma Statutes, and other than the person is
17 intellectually disabled as defined in Title 10 of the Oklahoma
18 Statutes, and is also found to be not dangerous as defined by
19 Section 1175.1 of this title, the court shall issue the appropriate
20 order as set forth in Section 1175.6b of this title; or

21 5. If the person is found to be incompetent for reasons other
22 than the person is a person requiring treatment as defined by Title
23 43A of the Oklahoma Statutes, and other than the person is
24 intellectually disabled as defined in Title 10 of the Oklahoma

1 Statutes, but is also found to be dangerous as defined by Section
2 1175.1 of this title, the court shall issue the appropriate order as
3 set forth in Section 1175.6c of this title.

4 D. If the person is found to be incompetent because the person
5 is a person requiring treatment as defined by Section 1-103 of Title
6 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 of the Oklahoma
10 Statutes and shall dismiss without prejudice the criminal
11 proceeding. If the person is subsequently committed to the
12 Department of Mental Health and Substance Abuse Services pursuant to
13 Title 43A of the Oklahoma Statutes, the statute of limitations for
14 the criminal charges which were dismissed by the court shall be
15 tolled until the person is discharged from the Department of Mental
16 Health and Substance Abuse Services pursuant to Section 7-101 of
17 Title 43A of the Oklahoma Statutes.

18 SECTION 2. This act shall become effective November 1, 2024.
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20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
21 02/28/2024 - DO PASS, As Amended.
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