

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

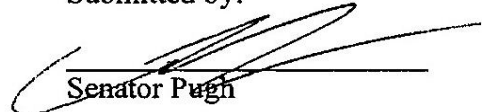
No. 1

☐ COMMITTEE AMENDMENT

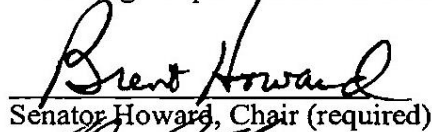
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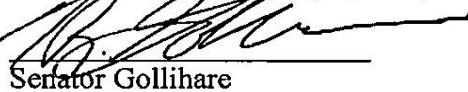
I move to amend House Bill No. 2137 by substituting the attached floor substitute (Request # 2083) for the title, enacting clause, and entire body of the measure.

Submitted by:


Senator Pugh

I hereby grant permission for the floor substitute to be adopted.


Senator Howard, Chair (required)


Senator Gollihare

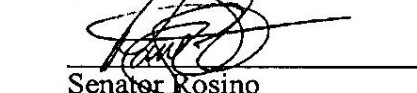
Senator Boren

Senator Brooks

Senator Paxton, President Pro Tempore


Senator Jeck


Senator Jeff


Senator Rosino


Senator Standridge

Senator Daniels, Majority Floor Leader

Note: Judiciary Committee majority requires five (5) members' signatures.

Pugh-TEK-FS-HB2137
5/1/2025 11:16 AM

(Floor Amendments Only)

Date and Time Filed: 5/6/25 10:45am 

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

FLOOR SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2137

By: Stinson and Archer of the
House

and

Pugh of the Senate

FLOOR SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 1175.8, which relates to the resumption of competency; requiring the Department of Mental Health and Substance Abuse Services to provide notification to certain parties when seeking to administer medication; providing for the filing of applications for court orders authorizing medication; requiring applications to indicate certain information; requiring hearings to be held within certain time frame; providing an exception; providing list of rights for persons subject to an order requiring the administration of medication; requiring petitioner to provide clear and convincing evidence in application; directing the court to make specific findings of fact; establishing time limitations for administering medications; providing construing provision; amending 51 O.S. 2021, Section 152, as last amended by Section 111, Chapter 452, O.S.L. 2024 (51 O.S. Supp. 2024, Section 152), which relates to The Governmental Tort Claims Act; modifying definitions; and providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1175.8, is
2 amended to read as follows:

3 Section 1175.8. A. If the medical supervisor reports that the
4 person appears to have achieved competency after a finding of
5 incompetency, the court shall hold another competency hearing to
6 determine if the person has achieved competency. If competency has
7 been achieved, the criminal proceedings shall be resumed.

8 B. If the Department of Mental Health and Substance Abuse
9 Services or its designee wishes to administer medication, including
10 psychotropic medication, to a person in custody under the provisions
11 of subsection A of Section 1175.6a of this title and has reason to
12 believe the person lacks the capacity to consent to or refuse
13 medication or the person refuses to take the medication voluntarily,
14 the Department or its designee shall notify the court, the
15 prosecuting office that filed the criminal petition, and the
16 attorney for the person. The prosecuting office or the Department
17 or its designee may, on behalf of the state, file an application for
18 an order authorizing medication for purposes of competency
19 restoration with the court. Any such application shall also seek
20 authorization to continue medication for purposes of maintaining the
21 level of restoration while incarcerated following competency
22 restoration.

23 C. An application seeking authorization of medication shall
24 indicate:

1 1. If the treating physician of the person believes the person
2 lacks the capacity to make a decision regarding administration of
3 the medication and the reasons for that belief;

4 2. A summary of the individualized treatment plan of the
5 person, including the class of medications to be potentially
6 administered and the corresponding dosage ranges;

7 3. The diagnosis of the person made by the treating physician;
8 and

9 4. The proposed method for administering the medication and, if
10 the method is not customary, an explanation justifying the departure
11 from the customary method.

12 D. The hearing on the application shall be held no later than
13 thirty (30) days after the filing of the application, unless good
14 cause is shown.

15 E. A person for whom an application for an order to authorize
16 the administration of medication is filed is entitled to:

17 1. An attorney to represent the person at the hearing. If the
18 person cannot afford an attorney, the court shall appoint an
19 attorney;

20 2. Meet with the attorney as soon as practicable to prepare for
21 the hearing;

22 3. Receive, as soon as practicable after the time the hearing
23 is set, a copy of the application and written notice of the time,
24 place, and date of the hearing;

1 4. Notice of the right to a hearing and right to the assistance
2 of an attorney to prepare for the hearing;

3 5. Be present at the hearing;

4 6. Request from the court an independent expert; and

5 7. Notification at the conclusion of the hearing of the
6 determination made by the court.

7 F. The administration of medication shall not be ordered unless
8 the petitioning party proves by clear and convincing evidence that:

9 1. There exists an important state interest that justifies
10 overriding the lack of consent by the person to the administration
11 of medication;

12 2. Involuntary medication is substantially likely to render the
13 person competent to stand trial and substantially unlikely to have
14 side effects that will interfere significantly with the ability of
15 the person to assist trial counsel;

16 3. Involuntary medication is necessary to further the interests
17 of the state and any alternative, less intrusive treatments are not
18 likely to achieve substantially the same results; and

19 4. The administration of the medication is in the best medical
20 interest of the person in light of the medical condition of the
21 person.

22 G. The court shall make specific findings of fact concerning:

23 1. Each consideration listed under the provisions of subsection
24 F of this section;

1 2. The desires of the person regarding the proposed treatment;
2 and

3 3. The capacity of the person to consent to or refuse
4 medication.

5 H. An order for the administration of medications entered
6 following a hearing conducted pursuant to this section shall be
7 effective for the period of the current involuntary commitment order
8 and any interim period during which the person is awaiting trial or
9 a hearing on a new petition for involuntary treatment or involuntary
10 medication. The order shall specify all medications to be
11 potentially involuntarily administered and corresponding dosage
12 ranges.

13 I. Nothing in this section shall be construed to invalidate,
14 prohibit, or alter the administration of medication to a person
15 under other laws or regulations of this state.

16 SECTION 2. AMENDATORY 51 O.S. 2021, Section 152, as last
17 amended by Section 111, Chapter 452, O.S.L. 2024 (51 O.S. Supp.
18 2024, Section 152), is amended to read as follows:

19 Section 152. As used in The Governmental Tort Claims Act:

20 1. "Action" means a proceeding in a court of competent
21 jurisdiction by which one party brings a suit against another;

22 2. "Agency" means any board, commission, committee, department
23 or other instrumentality or entity designated to act in behalf of
24 the state or a political subdivision;

1 3. "Charitable health care provider" means a person who is
2 licensed, certified, or otherwise authorized by the laws of this
3 state to administer health care in the ordinary course of business
4 or the practice of a profession and who provides care to a medically
5 indigent person, as defined in paragraph 9 of this section, with no
6 expectation of or acceptance of compensation of any kind;

7 4. "Claim" means any written demand presented by a claimant or
8 the claimant's authorized representative in accordance with the
9 Governmental Tort Claims Act to recover money from the state or
10 political subdivision as compensation for an act or omission of a
11 political subdivision or the state or an employee;

12 5. "Claimant" means the person or the person's authorized
13 representative who files notice of a claim in accordance with The
14 Governmental Tort Claims Act. Only the following persons and no
15 others may be claimants:

- 16 a. any person holding an interest in real or personal
17 property which suffers a loss, provided that the claim
18 of the person shall be aggregated with claims of all
19 other persons holding an interest in the property and
20 the claims of all other persons which are derivative
21 of the loss, and that multiple claimants shall be
22 considered a single claimant,
- 23 b. the individual actually involved in the accident or
24 occurrence who suffers a loss, provided that the

1 individual shall aggregate in the claim the losses of
2 all other persons which are derivative of the loss, or
3 c. in the case of death, an administrator, special
4 administrator or a personal representative who shall
5 aggregate in the claim all losses of all persons which
6 are derivative of the death;

7 6. "Community health care provider" means:

8 a. a health care provider who volunteers services at a
9 community health center that has been deemed by the
10 U.S. Department of Health and Human Services as a
11 federally qualified health center as defined by 42
12 U.S.C., Section 1396d(1)(2)(B),

13 b. a health provider who provides services to an
14 organization that has been deemed a federally
15 qualified look-alike community health center, and

16 c. a health care provider who provides services to a
17 community health center that has made application to
18 the U.S. Department of Health and Human Services for
19 approval and deeming as a federally qualified look-
20 alike community health center in compliance with
21 federal application guidance, and has received
22 comments from the U.S. Department of Health and Human
23 Services as to the status of such application with the
24 established intent of resubmitting a modified

1 application, or, if denied, a new application, no
2 later than six (6) months from the date of the
3 official notification from the U.S. Department of
4 Health and Human Services requiring resubmission of a
5 new application;

6 7. "Employee" means any person who is authorized to act ~~in~~ on
7 behalf of a political subdivision or the state whether that person
8 is acting on a permanent or temporary basis, with or without being
9 compensated or on a full-time or part-time basis.

10 a. Employee also includes:

11 (1) all elected or appointed officers, members of
12 governing bodies and other persons designated to
13 act for an agency or political subdivision, but
14 the term does not mean a person or other legal
15 entity while acting in the capacity of an
16 independent contractor or an employee of an
17 independent contractor,

18 (2) from September 1, 1991, through June 30, 1996,
19 licensed physicians, licensed osteopathic
20 physicians and certified nurse-midwives providing
21 prenatal, delivery or infant care services to
22 State Department of Health clients pursuant to a
23 contract entered into with the State Department
24 of Health in accordance with paragraph 3 of

1 subsection B of Section 1-106 of Title 63 of the
2 Oklahoma Statutes but only insofar as services
3 authorized by and in conformity with the terms of
4 the contract and the requirements of Section 1-
5 233 of Title 63 of the Oklahoma Statutes, and

6 (3) any volunteer, full-time or part-time firefighter
7 when performing duties for a fire department
8 provided for in subparagraph j of paragraph 11 of
9 this section.

10 b. For the purposes of The Governmental Tort Claims Act,
11 the following are employees of this state, regardless
12 of the place in this state where duties as employees
13 are performed:

14 (1) physicians acting in an administrative capacity,

15 (2) resident physicians and resident interns
16 participating in a graduate medical education
17 program of the University of Oklahoma Health
18 Sciences Center, the College of Osteopathic
19 Medicine of Oklahoma State University, or the
20 Department of Mental Health and Substance Abuse
21 Services,

22 (3) faculty members and staff of the University of
23 Oklahoma Health Sciences Center and the College
24

- 1 of Osteopathic Medicine of Oklahoma State
2 University, while engaged in teaching duties,
3 (4) physicians who practice medicine or act in an
4 administrative capacity as an employee of an
5 agency of the State of Oklahoma,
6 (5) physicians who provide medical care to inmates
7 pursuant to a contract with the Department of
8 Corrections,
9 (6) any person who is licensed to practice medicine
10 pursuant to Title 59 of the Oklahoma Statutes,
11 who is under an administrative professional
12 services contract with the Oklahoma Health Care
13 Authority under the auspices of the Oklahoma
14 Health Care Authority Chief Medical Officer, and
15 who is limited to performing administrative
16 duties such as professional guidance for medical
17 reviews, reimbursement rates, service
18 utilization, health care delivery and benefit
19 design for the Oklahoma Health Care Authority,
20 only while acting within the scope of such
21 contract,
22 (7) licensed medical professionals, healthcare
23 companies, and employees of healthcare companies
24 under contract with city, county, or state

1 entities who provide medical care to inmates or
2 detainees in the custody or control of law
3 enforcement agencies,

4 (8) licensed mental health professionals as defined
5 in Sections 1-103 and 5-502 of Title 43A of the
6 Oklahoma Statutes, who are conducting initial
7 examinations of individuals for the purpose of
8 determining whether an individual meets the
9 criteria for emergency detention as part of a
10 contract with the Department of Mental Health and
11 Substance Abuse Services, and

12 (9) licensed mental health professionals as defined
13 in Sections 1-103 and 5-502 of Title 43A of the
14 Oklahoma Statutes, who are providing mental
15 health or substance abuse treatment services
16 under a professional services contract with the
17 Department of Mental Health and Substance Abuse
18 Services and are providing such treatment
19 services at a state-operated facility.

20 Physician faculty members and physician staff of the
21 University of Oklahoma Health Sciences Center and the
22 College of Osteopathic Medicine of Oklahoma State
23 University not acting in an administrative capacity or
24

1 engaged in teaching duties are not employees or agents
2 of the state.

3 c. For the purposes of The Governmental Tort Claims Act,
4 employee shall include independent contractors and
5 employees of independent contractors while actively
6 engaged in the transport of individuals in need of
7 initial assessment, emergency detention, or protective
8 custody as authorized by Section 1-110 of Title 43A of
9 the Oklahoma Statutes.

10 d. Except as provided in subparagraph b of this
11 paragraph, in no event shall the state be held liable
12 for the tortious conduct of any physician, resident
13 physician or intern while practicing medicine or
14 providing medical treatment to patients.

15 e. For purposes of The Governmental Tort Claims Act,
16 members of the state military forces on state active
17 duty orders or on Title 32 active duty orders are
18 employees of this state, regardless of the place,
19 within or outside this state, where their duties as
20 employees are performed;

21 8. "Loss" means death or injury to the body or rights of a
22 person or damage to real or personal property or rights therein;

23 9. "Medically indigent" means a person requiring medically
24 necessary hospital or other health care services for the person or

1 the dependents of the person who has no public or private third-
2 party coverage, and whose personal resources are insufficient to
3 provide for needed health care;

4 10. "Municipality" means any incorporated city or town, and all
5 institutions, agencies or instrumentalities of a municipality;

6 11. "Political subdivision" means:

7 a. a municipality,

8 b. a school district, including, but not limited to, a
9 technology center school district established pursuant
10 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of
11 the Oklahoma Statutes,

12 c. a county,

13 d. a public trust where the sole beneficiary or
14 beneficiaries are a city, town, school district or
15 county. For purposes of The Governmental Tort Claims
16 Act, a public trust shall include:

17 (1) a municipal hospital created pursuant to Sections
18 30-101 through 30-109 of Title 11 of the Oklahoma
19 Statutes, a county hospital created pursuant to
20 Sections 781 through 796 of Title 19 of the
21 Oklahoma Statutes, or is created pursuant to a
22 joint agreement between such governing
23 authorities, that is operated for the public
24 benefit by a public trust created pursuant to

1 Sections 176 through 180.4 of Title 60 of the
2 Oklahoma Statutes and managed by a governing
3 board appointed or elected by the municipality,
4 county, or both, who exercises control of the
5 hospital, subject to the approval of the
6 governing body of the municipality, county, or
7 both,

8 (2) a public trust created pursuant to Sections 176
9 through 180.4 of Title 60 of the Oklahoma
10 Statutes after January 1, 2009, the primary
11 purpose of which is to own, manage, or operate a
12 public acute care hospital in this state that
13 serves as a teaching hospital for a medical
14 residency program provided by a college of
15 osteopathic medicine and provides care to
16 indigent persons, and

17 (3) a corporation in which all of the capital stock
18 is owned, or a limited liability company in which
19 all of the member interest is owned, by a public
20 trust,

21 e. for the purposes of The Governmental Tort Claims Act
22 only, a housing authority created pursuant to the
23 provisions of the Oklahoma Housing Authorities Act,
24

- 1 f. for the purposes of The Governmental Tort Claims Act
2 only, corporations organized not for profit pursuant
3 to the provisions of the Oklahoma General Corporation
4 Act for the primary purpose of developing and
5 providing rural water supply and sewage disposal
6 facilities to serve rural residents,
- 7 g. for the purposes of The Governmental Tort Claims Act
8 only, districts formed pursuant to the Rural Water,
9 Sewer, Gas and Solid Waste Management Districts Act,
- 10 h. for the purposes of The Governmental Tort Claims Act
11 only, master conservancy districts formed pursuant to
12 the Conservancy Act of Oklahoma,
- 13 i. for the purposes of The Governmental Tort Claims Act
14 only, a fire protection district created pursuant to
15 the provisions of Section 901.1 et seq. of Title 19 of
16 the Oklahoma Statutes,
- 17 j. for the purposes of The Governmental Tort Claims Act
18 only, a benevolent or charitable corporate volunteer
19 or full-time fire department for an unincorporated
20 area created pursuant to the provisions of Section 592
21 et seq. of Title 18 of the Oklahoma Statutes,
- 22 k. for purposes of The Governmental Tort Claims Act only,
23 an Emergency Services Provider rendering services
24 within the boundaries of a Supplemental Emergency

Services District pursuant to an existing contract between the Emergency Services Provider and the State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such Emergency Services Provider performed within this state shall not operate as a waiver of any of the limitations, immunities or defenses provided for political subdivisions pursuant to the terms of The Governmental Tort Claims Act,

l. for purposes of The Governmental Tort Claims Act only, a conservation district created pursuant to the provisions of the Conservation District Act,

m. for purposes of The Governmental Tort Claims Act, districts formed pursuant to the Oklahoma Irrigation District Act,

n. for purposes of The Governmental Tort Claims Act only, any community action agency established pursuant to Sections 5035 through 5040 of Title 74 of the Oklahoma Statutes,

o. for purposes of The Governmental Tort Claims Act only, any organization that is designated as a youth services agency, pursuant to Section 2-7-306 of Title 10A of the Oklahoma Statutes,

- 1 p. for purposes of The Governmental Tort Claims Act only,
2 any judge presiding over a drug court, as defined by
3 Section 471.1 of Title 22 of the Oklahoma Statutes,
4 q. for purposes of The Governmental Tort Claims Act only,
5 any child-placing agency licensed by this state to
6 place children in foster family homes,
7 r. for purposes of The Governmental Tort Claims Act only,
8 a circuit engineering district created pursuant to
9 Section 687.1 of Title 69 of the Oklahoma Statutes,
10 s. for purposes of the Governmental Tort Claims Act only,
11 a substate planning district, regional council of
12 government or other entity created pursuant to Section
13 1001 et seq. of Title 74 of the Oklahoma Statutes, and
14 t. for purposes of The Governmental Tort Claims Act only,
15 a regional transportation authority created pursuant
16 to Section 1370.7 of Title 68 of the Oklahoma Statutes
17 including its contract operator and any railroad
18 operating in interstate commerce that sells a property
19 interest or provides services to a regional
20 transportation authority or allows the authority to
21 use the property or tracks of the railroad for the
22 provision of public passenger rail service to the
23 extent claims against the contract operator or
24 railroad arise out of or are related to or in

1 connection with such property interest, services or
2 operation of the public passenger rail service.

3 Provided, the acquisition of commercial liability
4 insurance to cover the activities of the regional
5 transportation authority, contract operator or
6 railroad shall not operate as a waiver of any
7 liabilities, immunities or defenses provided pursuant
8 to the provisions of the Governmental Tort Claims Act,
9 and all their institutions, instrumentalities or agencies;

10 12. "Scope of employment" means performance by an employee
11 acting in good faith within the duties of the employee's office or
12 employment or of tasks lawfully assigned by a competent authority
13 including the operation or use of an agency vehicle or equipment
14 with actual or implied consent of the supervisor of the employee,
15 but shall not include corruption or fraud;

16 13. "State" means the State of Oklahoma or any office,
17 department, agency, authority, commission, board, institution,
18 hospital, college, university, public trust created pursuant to
19 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
20 the beneficiary, or other instrumentality thereof;

21 14. "State active duty" shall be defined in accordance with
22 Section 801 of Title 44 of the Oklahoma Statutes;

23 15. "State military forces" shall be defined in accordance with
24 Section 801 of Title 44 of the Oklahoma Statutes;

1 16. "Title 32 active duty" shall be defined in accordance with
2 Section 801 of Title 44 of the Oklahoma Statutes; and

3 17. "Tort" means a legal wrong, independent of contract,
4 involving violation of a duty imposed by general law, statute, the
5 Constitution of the State of Oklahoma, or otherwise, resulting in a
6 loss to any person, association or corporation as the proximate
7 result of an act or omission of a political subdivision or the state
8 or an employee acting within the scope of employment; provided,
9 however, a tort shall not include a claim for inverse condemnation.

10 SECTION 3. This act shall become effective November 1, 2025.

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12 60-1-2083 TEK 5/6/2025 11:02:43 AM

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