

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 HOUSE BILL 3629

By: Lawson

7 AS INTRODUCED

8 An Act relating to criminal procedure; amending 22  
9 O.S. 2021, Sections 1175.2, 1175.4, as amended by  
Section 3, Chapter 73, O.S.L. 2024, and 1175.6a, as  
10 amended by Section 2, Chapter 364, O.S.L. 2025 (22  
O.S. Supp. 2025, Sections 1175.4 and 1175.6a), which  
11 relate to procedures for determining competency;  
deleting certain notice and affidavit requirement;  
12 extending time limitation for scheduling certain  
hearing; authorizing courts to issue orders for  
13 medications and injectables; directing the Department  
of Mental Health and Substance Abuse Services to  
14 prepare and submit certain report to the court; and  
providing an effective date.

15  
16  
17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1175.2, is  
19 amended to read as follows:

20 Section 1175.2. A. No person shall be subject to any criminal  
21 procedures after the person is determined to be incompetent except  
22 as provided in Sections 1175.1 through 1175.8 of this title. The  
23 question of the incompetency of a person may be raised by the  
24 person, the attorney for the person whose competency is in question,

1 or the district attorney, by an application for determination of  
2 competency. The application for determination of competency shall  
3 allege that the person is incompetent to undergo further  
4 proceedings, and shall state facts sufficient to raise a doubt as to  
5 the competency of the person. The court, at any time, may initiate  
6 a competency determination on its own motion, without an  
7 application, if the court has a doubt as to the competency of the  
8 person.

9       If the court so initiates such an application, it may appoint  
10 the district attorney for the purpose of proceeding with the  
11 application. If the district attorney opposes the application of  
12 the court, and by reason of a conflict of interest could not  
13 represent the court as applicant, then the court shall appoint  
14 private counsel. Said private counsel shall be reasonably  
15 compensated by the court fund.

16       B. A copy of the application for determination of competency  
17 and a notice, as hereinafter described, shall be served personally  
18 at least one (1) day before the first hearing on the application for  
19 a competency determination. The notice shall contain the following  
20 information:

21       1. The definition provided by Section 1175.1 of this title of  
22 competency and incompetency;

23  
24

1       2. That, upon request, the hearing on the application may be  
2 conducted as a jury trial as provided in Section 1175.4 of this  
3 title;

4       3. That the petitioner and any witnesses identified in the  
5 application may offer testimony under oath at the hearings on the  
6 petition and that the defendant may not be called to testify against  
7 the defendant's will, unless the application is initiated by the  
8 defendant;

9       4. That if the person whose competency is in question does not  
10 have an attorney, the court will appoint an attorney for the person  
11 who shall represent the person until final disposition of the case;

12       5. That if the person whose competency is in question is  
13 indigent or poor, the court will pay the attorney fees; and

14       6. That the person whose competency is in question shall be  
15 afforded such other rights as are guaranteed by state and federal  
16 law and that such rights include a trial by jury, if demanded. ~~The~~  
17 ~~notice shall be served upon the person whose competency is in~~  
18 ~~question, upon the person's father, mother, husband, or wife or, in~~  
19 ~~their absence, someone of the next of kin, of full age, if any said~~  
20 ~~persons are known to be residing within the county, and upon any of~~  
21 ~~said relatives residing outside of the county, and within the state,~~  
22 ~~as may be ordered by the court, and also upon the person with whom~~  
23 ~~the person whose competency is in question may reside, or at whose~~  
24 ~~house the person may be. The person making such service shall make~~

1 ~~affidavit of the same and file such notice, with proof of service,~~  
2 ~~with the district court. This notice may be served in any part of~~  
3 ~~this state.~~

4 C. Any criminal proceedings against a person whose competency  
5 is in question shall be suspended pending the determination of the  
6 competency of the person.

7 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1175.4, as  
8 amended by Section 3, Chapter 73, O.S.L. 2024 (22 O.S. Supp. 2025,  
9 Section 1175.4), is amended to read as follows:

10 Section 1175.4. A. A hearing to determine the competency of  
11 the person whose competency is in question shall be held within  
12 thirty (30) days after the qualified forensic examiner or examiners  
13 have made the determination required in Section 1175.3 of this  
14 title. In such cases where intellectual disability may be involved,  
15 the Office of Public Guardian shall have standing to participate in  
16 any stage of the proceedings as deemed necessary by the Office.

17 B. The court, at the hearing, shall determine by a  
18 preponderance of the evidence if the person is incompetent. Such  
19 determination shall include consideration of all reports prepared by  
20 the qualified forensic examiner or examiners; provided, however, in  
21 any case where intellectual disability may be involved, the  
22 recommendations of examiners set forth in subparagraph b of  
23 paragraph 1 of subsection D of Section 1175.3 of this title shall be  
24 considered by the court. The person shall be presumed to be

1 competent for the purposes of the allocation of the burden of proof  
2 and burden of going forward with the evidence. If the court deems  
3 it necessary, or if the person alleged to be a person requiring  
4 treatment, or any relative, friend, or any person with whom he or  
5 she may reside, or at whose house the person may be, shall so  
6 demand, the court shall schedule the hearing on the application as a  
7 jury trial to be held within ~~seventy-two (72) hours~~ thirty (30) days  
8 of the request, excluding weekends and legal holidays, or within as  
9 much additional time as is requested by the attorney of the person  
10 whose competency is in question, upon good cause shown. The jury  
11 shall be composed of six (6) persons having the qualifications  
12 required of jurors in courts of record, summoned to determine the  
13 questions of the ~~person's~~ competency of the person and need for  
14 treatment. Whenever a jury is required, the court shall proceed to  
15 the selection of such jury in the manner as provided by law and such  
16 jury shall determine the questions of the competency and need for  
17 treatment of the person whose competency is in question. The jurors  
18 shall receive fees for attendance and mileage as are allowed by law.

19       C. The person whose competency is in question shall have the  
20 right to be present at the hearing on the petition unless it is made  
21 to appear to the court that the presence of the person makes it  
22 impossible to conduct the hearing in a reasonable manner. The court  
23 may not decide in advance of the hearing, solely on the basis of the  
24 certificate of the examining doctor or doctors, that the person

1 whose competency is in question should not be allowed to appear. It  
2 shall be made to appear to the court based on clear and convincing  
3 evidence that alternatives to exclusion were attempted before the  
4 court renders the ~~person's~~ removal of the person for that purpose or  
5 the ~~person's~~ appearance of the person at such hearing improper and  
6 unsafe.

7       D. All witnesses shall be subject to cross-examination in the  
8 same manner as is provided by law. If so stipulated by counsel for  
9 a person whose competency is in question, the district attorney and  
10 the court, testimony may be given by telephone or other electronic  
11 transmitting device approved by the court. No statement, admission  
12 or confession made by the person whose competency is in question  
13 obtained during the examination for competency may be used for any  
14 purpose except for proceedings under Section 1175.1 et seq. of this  
15 title. No such statement, admission or confession may be used  
16 against such person in any criminal action whether pending at the  
17 time the hearing is held or filed against such person at any later  
18 time, directly, indirectly or in any manner or form.

19       E. If the question of competency is submitted to a jury, the  
20 court shall instruct the jury as to the law regarding competency,  
21 and the findings they are to make. If the trial of the question is  
22 to the court, the court shall make the required findings.

23  
24

1 SECTION 3. AMENDATORY 22 O.S. 2021, Section 1175.6a, as  
2 amended by Section 2, Chapter 364, O.S.L. 2025 (22 O.S. Supp. 2025,  
3 Section 1175.6a), is amended to read as follows:

4 Section 1175.6a. A. If the person is found to be incompetent  
5 prior to conviction because he or she is a person requiring  
6 treatment as defined in Section 1-103 of Title 43A of the Oklahoma  
7 Statutes, but capable of achieving competence with treatment within  
8 a reasonable period of time as defined by Section 1175.1 of this  
9 title, the court shall suspend the criminal proceedings and order  
10 the Department of Mental Health and Substance Abuse Services to  
11 provide treatment, therapy or training which is calculated to allow  
12 the person to achieve competency. In addition, the court shall also  
13 be authorized to order the Department or treating physician to  
14 prescribe and administer medications, including the administration  
15 of medications by an injectable method. The Department may  
16 designate a willing entity to provide such competency restoration  
17 services on behalf of the Department, provided the entity has  
18 qualified personnel. The court shall further order the Department  
19 to take custody of the individual as soon as a forensic bed becomes  
20 available, unless both the Department and the county jail where the  
21 person is being held determine that it is in the best interests of  
22 the person to remain in the county jail. Such competency  
23 restoration services shall begin within a reasonable period of time  
24

1 after the court has determined that the person is not competent to  
2 stand trial.

3 The person shall remain in the custody of the county jail until  
4 such time as the Department has a bed available at the forensic  
5 facility unless competency restoration services are provided by a  
6 designee of the Department, in which case custody of the person  
7 shall be transferred to the Department.

8 B. The Every thirty (30) days, the Department of Mental Health  
9 and Substance Abuse Services or designee shall ~~make periodic reports~~  
10 prepare and submit to the court a report as to the competency of the  
11 defendant.

12 C. If the person is determined by the Department of Mental  
13 Health and Substance Abuse Services or designee to have regained  
14 competency, or is no longer incompetent because the person is a  
15 person requiring treatment as defined by Section 1-103 of Title 43A  
16 of the Oklahoma Statutes, a hearing shall be scheduled within twenty  
17 (20) days:

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

20 2. If the person is found to continue to be incompetent because  
21 the person is a person requiring treatment as defined in Section 1-  
22 103 of Title 43A of the Oklahoma Statutes, the person shall be  
23 returned to the custody of the Department of Mental Health and  
24 Substance Abuse Services or designee;

1       3. If the person is found to be incompetent because the person  
2 is an individual with intellectual disability as defined by Section  
3 1408 of Title 10 of the Oklahoma Statutes, the court shall issue the  
4 appropriate order as set forth in Section 1175.6b of this title;

5       4. If the person is found to be incompetent for reasons other  
6 than the person is a person requiring treatment as defined by  
7 Section 1-103 of Title 43A of the Oklahoma Statutes, and other than  
8 the person is an individual with intellectual disability as defined  
9 in Section 1408 of Title 10 of the Oklahoma Statutes, and is also  
10 found to be not dangerous as defined by Section 1175.1 of this  
11 title, the court shall issue the appropriate order as set forth in  
12 Section 1175.6b of this title; or

13       5. If the person is found to be incompetent for reasons other  
14 than the person is a person requiring treatment as defined by  
15 Section 1-103 of Title 43A of the Oklahoma Statutes, and other than  
16 the person is an individual with intellectual disability as defined  
17 in Section 1408 of Title 10 of the Oklahoma Statutes, but is also  
18 found to be dangerous as defined by Section 1175.1 of this title,  
19 the court shall issue the appropriate order as set forth in Section  
20 1175.6c of this title.

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

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

11       E. For a person undergoing competency restoration services,  
12 within thirty (30) days after the expiration of the reasonable  
13 period of time as defined by Section 1175.1 of this title, the court  
14 shall hold a hearing to determine whether the person has been  
15 restored to competency.

16       1. No less than fifteen (15) days prior to the hearing the  
17 Department of Mental Health and Substance Abuse Services shall  
18 submit a report to the court, the person's attorney, and the  
19 prosecuting agency detailing the person's status and progress in  
20 being restored to competency including the person's historical and  
21 current compliance with medication and treatment and a plan for  
22 competency restoration if additional competency restoration services  
23 are ordered by the court.

24

1       2. If the court determines that the person has been restored to  
2 competency, the criminal proceedings shall resume.

3       3. If the court determines that the person has not been  
4 restored to competency, the court shall determine whether additional  
5 competency restoration services are likely to be beneficial in  
6 restoring the person to competency. If the court finds by a  
7 preponderance of the evidence that additional competency restoration  
8 services are:

9           a. likely to be beneficial in restoring the person to  
10 competency, the court shall order the person to remain  
11 in or be transferred to the custody of the Department  
12 which shall continue to provide treatment, therapy, or  
13 training calculated to restore the person to  
14 competency for a period of time not to exceed the  
15 lesser of an additional two (2) years or the maximum  
16 sentence specified for the most serious offense with  
17 which the defendant is charged, or

18           b. not likely to be beneficial in restoring the person to  
19 competency, the court shall commence civil commitment  
20 proceedings pursuant to Title 43A of the Oklahoma  
21 Statutes and shall dismiss without prejudice the  
22 criminal proceeding. If the person is subsequently  
23 committed to the Department pursuant to Title 43A of  
24 the Oklahoma Statutes, the statute of limitations for

the criminal charges which were dismissed by the court shall be tolled until the person is discharged from the Department pursuant to Section 7-101 of Title 43A of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 2026.

60-2-13891 GRS 11/10/25