

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

HOUSE BILL 3629

By: Lawson

AS INTRODUCED

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

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

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

Section 1175.2. A. No person shall be subject to any criminal procedures after the person is determined to be incompetent except as provided in Sections 1175.1 through 1175.8 of this title. The question of the incompetency of a person may be raised by the 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;
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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~~

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

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

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

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

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

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

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

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

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