

1 STATE OF OKLAHOMA

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

3 POLICY COMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 3743

7 By: Harris

8 POLICY COMMITTEE RECOMMENDATION

9 An Act relating to criminal procedure; amending 22
10 O.S. 2021, Sections 1175.1, as last amended by
11 Section 1, Chapter 364, O.S.L. 2025, 1175.3, as
12 amended by Section 2, Chapter 73, O.S.L. 2024,
13 1175.4, as amended by Section 3, Chapter 73, O.S.L.
14 2024, 1175.7 and 1175.8 (22 O.S. Supp. 2025, Sections
15 1175.1, 1175.3 and 1175.4), which relate to
16 competency determinations; updating name of forensic
17 examiners; providing for evaluations of individuals
18 rather than examinations; providing procedures for
19 determining appropriate treatment for persons found
20 incompetent and committed to the Department of Mental
21 Health and Substance Abuse Services; requiring
22 individuals to consent and comply with certain terms
23 and conditions when participating in community-based
24 outpatient competency restoration programs; directing
providers to submit reports concerning compliance or
violations; allowing modification of court orders
under certain circumstances; providing for inpatient
care when necessary; authorizing participating
individuals to receive additional treatment or
support services; prohibiting courts from committing
persons who are currently serving active sentences;
providing an exception; making provisions applicable
regardless of when criminal sentencing occurred;
providing conflict of laws provision; providing for
the appointment of medical supervisors under certain
circumstances; allowing for inpatient or outpatient
treatment; requiring periodic progress reports to the
court; authorizing payment of services from court
funds; permitting the use of private treatment

1 facilities; directing courts to conduct additional
2 competency hearings within certain number of days
3 after receiving reports of competency; and providing
4 an effective date.

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

8 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1175.1, as
9 last amended by Section 1, Chapter 364, O.S.L. 2025 (22 O.S. Supp.
10 2025, Section 1175.1), is amended to read as follows:

11 Section 1175.1. As used in Sections 1175.1 through 1176 of this
12 title:

13 1. "Competent" or "competency" means the present ability of a
14 person arrested for or charged with a crime to understand the nature
15 of the charges and proceedings brought against him or her and to
16 effectively and rationally assist in his or her defense;

17 2. "Criminal proceeding" means every stage of a criminal
18 prosecution after arrest and before judgment, including, but not
19 limited to, interrogation, lineup, preliminary hearing, motion
20 dockets, discovery, pretrial hearings and trial;

21 3. "Dangerous" means a person who is a person requiring
22 treatment as defined in Section 1-103 of Title 43A of the Oklahoma
23 Statutes;

1 4. "Incompetent" or "incompetency" means the present inability
2 of a person arrested for or charged with a crime to understand the
3 nature of the charges and proceedings brought against him or her and
4 to effectively and rationally assist in his or her defense;

5 5. "Public guardian" means the Office of Public Guardian as
6 established under the Oklahoma Public Guardianship Act in Section 6-
7 101 et seq. of Title 30 of the Oklahoma Statutes;

8 6. "Qualified forensic ~~examiner~~ evaluator" means any:

- 9 a. psychiatrist with forensic training and experience,
10 b. psychologist with forensic training and experience, or
11 c. a licensed mental health professional whose forensic
12 training and experience enable him or her to form
13 expert opinions regarding mental illness, competency
14 and dangerousness and who has been approved to render
15 such opinions by the court; provided, however, a
16 licensed mental health professional shall not be
17 qualified to issue expert opinions as to competency or
18 dangerousness in cases in which a person is alleged to
19 be incompetent due to intellectual disability; and

20 7. "Reasonable period of time" means a period not to exceed the
21 lesser of:

- 22 a. the maximum sentence specified for the most serious
23 offense with which the defendant is charged, or
24 b. a maximum period of two (2) years.

1 Any time period where the defendant refuses medication
2 prescribed or ordered that is designed to restore the defendant to
3 competency shall not be used in the calculation of a reasonable
4 period of time.

5 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1175.3, as
6 amended by Section 2, Chapter 73, O.S.L. 2024 (22 O.S. Supp. 2025,
7 Section 1175.3), is amended to read as follows:

8 Section 1175.3. A. Upon filing of an application for
9 determination of competency, the court shall set a hearing date,
10 which shall be as soon as practicable, but at least one (1) day
11 after service of notice as provided by Section 1175.2 of this title.

12 B. The court shall hold a hearing on the date provided. At the
13 hearing, the court shall examine the application for determination
14 of competency to determine if it alleges facts sufficient to raise a
15 doubt as to the competency of the person. Any additional evidence
16 tending to create a doubt as to the competency of the person may be
17 presented at this hearing.

18 C. If the court finds there is no doubt as to the competency of
19 the person, it shall order the criminal proceedings to resume.

20 D. 1. a. If the court finds there is a doubt as to the
21 competency of the person, it shall order the person to
22 be ~~examined~~ evaluated by the Department of Mental
23 Health and Substance Abuse Services or by a qualified
24 forensic ~~examiner~~ evaluator designated by the

1 Department to perform competency ~~examinations~~
2 evaluations.

3 b. In addition, the Developmental Disabilities Services
4 Division and the Office of Public Guardian of the
5 Department of Human Services shall receive written
6 notice from the district attorney who filed the
7 criminal petition, and be authorized by order of the
8 court to have a psychologist or other appropriate
9 clinician participate with professionals assigned by
10 any other public or private agency in any competency
11 evaluation where developmental or intellectual
12 disability may be involved. The psychologist or
13 clinician employed, by contract or otherwise, by the
14 Department of Human Services may issue a separate
15 opinion and recommendation to the court. In such
16 cases where intellectual disability may be involved,
17 the Office of Public Guardian shall have standing to
18 participate in any stage of the proceedings as deemed
19 necessary by the Office.

20 2. The person shall be ~~examined~~ evaluated by a qualified
21 forensic ~~examiner~~ evaluator on an outpatient basis prior to referral
22 for any necessary inpatient evaluation, as ordered by the court.
23 The outpatient ~~examination~~ evaluation may be conducted in the
24 community, the jail or detention facility where the person is held.

1 3. If the court determines that the person whose competency is
2 in question may be dangerous as defined in Section 1175.1 of this
3 title, it shall order the person retained in a secure facility until
4 the completion of the competency hearing provided in Section 1175.4
5 of this title. If the court determines the person may be dangerous
6 as defined in Section 1175.1 of this title because the individual is
7 a person requiring treatment as defined in Section 1-103 of Title
8 43A of the Oklahoma Statutes, it may commit the person to the
9 custody of the Department of Mental Health and Substance Abuse
10 Services or any other state agency or private facility for the
11 ~~examination~~ evaluation required by this subsection. The person
12 shall be required to undergo ~~examination~~ evaluation for a period of
13 time sufficient for the qualified forensic ~~examiner~~ evaluator or
14 ~~examiners~~ evaluators to reach a conclusion as to competency, and the
15 court shall impose a reasonable time limitation for such period of
16 ~~examination~~ evaluation.

17 E. The qualified forensic ~~examiner~~ evaluator or ~~examiners~~
18 evaluators shall receive instructions that they shall ~~examine~~
19 evaluate the ~~patient~~ person to determine:

20 1. If the person is able to appreciate the nature of the
21 charges made against such person;

22 2. If the person is able to consult with the lawyer and
23 rationally assist in the preparation of the defense of such person;

24

1 3. If the person is unable to appreciate the nature of the
2 charges or to consult and rationally assist in the preparation of
3 the defense, whether the person can attain competency within a
4 reasonable period of time as defined in Section 1175.1 of this title
5 if provided with a course of treatment, therapy or training;

6 4. If the person is a person requiring treatment as defined by
7 Section 1-103 of Title 43A of the Oklahoma Statutes;

8 5. If the person is incompetent because the person is
9 intellectually disabled as defined in Section 1408 of Title 10 of
10 the Oklahoma Statutes;

11 6. If the requirements of paragraphs 4 and 5 of this subsection
12 are not established, the reasoning for which the defendant is
13 otherwise incompetent; and

14 7. If the person were released, whether such person would
15 presently be dangerous as defined in Section 1175.1 of this title.

16 F. Upon completion of the competency evaluation, the Department
17 of Mental Health and Substance Abuse Services or qualified forensic
18 ~~examiner~~ evaluator designated by the Department to perform
19 competency ~~examinations~~ evaluations shall notify the court of its
20 findings. If the person is in the custody of the Department of
21 Mental Health and Substance Abuse Services, the person shall be
22 returned to the court in the customary manner within five (5)
23 business days. If the person is not returned within that time, the
24 county in which the proceedings are to be held shall pay the costs

1 of maintaining the person at the institution or facility for the
2 period of time the person remains at the institution or facility in
3 excess of the five-day period.

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

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

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

1 the court deems it necessary, or if the person alleged to be a
2 person requiring treatment, or any relative, friend, or any person
3 with whom he may reside, or at whose house the person may be, shall
4 so demand, the court shall schedule the hearing on the application
5 as a jury trial to be held within seventy-two (72) hours of the
6 request, excluding weekends and legal holidays, or within as much
7 additional time as is requested by the attorney of the person whose
8 competency is in question, upon good cause shown. The jury shall be
9 composed of six (6) persons having the qualifications required of
10 jurors in courts of record, summoned to determine the questions of
11 the ~~person's~~ competency of the person and need for treatment.

12 Whenever a jury is required, the court shall proceed to the
13 selection of such jury in the manner as provided by law and such
14 jury shall determine the questions of the competency and need for
15 treatment of the person whose competency is in question. The jurors
16 shall receive fees for attendance and mileage as are allowed by law.

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

1 based on clear and convincing evidence that alternatives to
2 exclusion were attempted before the court renders ~~the person's~~
3 removal of the person for that purpose or the ~~person's~~ appearance of
4 the person at such hearing improper and unsafe.

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

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

21 SECTION 4. AMENDATORY 22 O.S. 2021, Section 1175.7, is
22 amended to read as follows:

23 Section 1175.7. A. If the person is found incompetent and is
24 committed to the Department of Mental Health and Substance Abuse

1 Services pursuant to Section 1175.6a of this title, but capable of
2 achieving competency within a reasonable period of time, as defined
3 by the court, the court shall order such person to undergo such
4 treatment, therapy or training which is calculated to allow the
5 person to achieve competence. In determining the appropriate form,
6 setting, and conditions of such treatment, the court shall consider
7 the recommendation of a qualified forensic evaluator, including
8 whether competency restoration may be safely and effectively
9 provided through a structured jail-based restoration program,
10 community-based outpatient competency restoration program, or
11 inpatient restoration program. All restoration programs, no matter
12 the venue, shall provide the structured, curriculum driven education
13 which is to be maintained by the Department.

14 B. ~~If the person is not committed to the custody of the~~
15 ~~Department of Mental Health and Substance Abuse Services, the~~ When
16 the court shall appoint a medical supervisor for a course of
17 ~~treatment. The medical supervisor of treatment may be any person or~~
18 ~~agency that agrees to supervise the course of treatment. The~~
19 ~~proposed treatment may be either inpatient or~~ orders an individual
20 to participate in community-based outpatient care depending on the
21 ~~facilities and resources available to the court and the type of~~
22 ~~disability sought to be corrected by the court's~~ competency
23 restoration based on a recommendation of a qualified forensic
24 evaluator, the order. ~~The court shall require the supervisor to~~

1 ~~provide periodic progress reports to the court and may pay for the~~
2 ~~services of the medical supervisor from court funds~~ consent of the
3 individual and compliance with all terms and conditions of the
4 community-based outpatient competency restoration program of the
5 Department of Mental Health and Substance Abuse Services and any
6 other court-ordered release conditions. If the individual is in a
7 county jail, such consent and compliance shall be conditions for
8 release.

9 1. The individual shall maintain at least ninety percent (90%)
10 attendance at all scheduled competency restoration education
11 appointments with a local Department facility or a locally certified
12 provider.

13 2. The individual shall maintain at least eighty-five percent
14 (85%) compliance with prescribed medication, as recommended by the
15 treating Department facility or locally certified provider, to
16 prevent symptom relapse or clinical deterioration.

17 3. The community-based outpatient competency restoration
18 provider shall submit a written report to the court once per month
19 regarding the compliance and progress of the individual, or lack
20 thereof. The report shall be submitted no later than the fifteenth
21 day of each month for the participation of the individual during the
22 preceding month.

23 4. If the individual fails or refuses to participate in the
24 ordered community-based outpatient competency restoration treatment,

1 as provided in this section, the provider shall report the violation
2 to the court within seventy-two (72) hours of the violation. The
3 report shall include a description of the violation. Upon receipt
4 of the report, the court shall issue a warrant for the individual,
5 who shall be taken into custody and returned to the county jail
6 pending further order of the court.

7 5. If community-based outpatient competency restoration is
8 unsuccessful, the court shall modify its order to require the
9 individual to participate in inpatient competency restoration
10 treatment. Upon issuance of the modified order, the court shall set
11 a date certain for the individual to report to an inpatient forensic
12 competency restoration program designated by the Department. If the
13 individual is in the county jail, the individual shall be
14 transported to the designated inpatient forensic competency
15 restoration program.

16 6. If, at any time, the Department determines that an
17 individual committed to community-based outpatient competency
18 restoration requires an inpatient level of care, the Department
19 shall notify the court. Upon receipt of such notice, the court
20 shall issue an order requiring inpatient competency restoration
21 treatment. Upon issuance of the order, the individual shall report
22 to or be transported to an inpatient forensic competency restoration
23 program designated by the Department.

1 7. Nothing in this section shall prohibit an individual
2 participating in community-based outpatient competency restoration
3 from receiving additional treatment or support services including
4 peer support, case management, or therapy, as determined to be
5 clinically appropriate or beneficial based on an assessment by the
6 local Department facility or a locally certified provider.

7 C. The court ~~may~~ shall not commit to the ~~incompetent person to~~
8 ~~the~~ custody of the Department of Mental Health and Substance Abuse
9 Services ~~unless the person is a person requiring treatment as~~
10 ~~defined by Title 43A of the Oklahoma Statutes~~ for the purpose of
11 competency evaluation or restoration, any person who is currently
12 serving an active sentence without a motion to accelerate or motion
13 to revoke having been filed in the associated case.

14 The provisions of this subsection shall apply to all persons
15 subject to such terms regardless of whether the criminal sentencing
16 of the person occurred before or after the effective date of this
17 act. In the event of a conflict between subsection M of Section
18 1005.1 of this title, the provisions of this section shall control.

19 D. ~~The court may allow the person to receive treatment from~~
20 ~~private facilities if such facilities are willing, and neither the~~
21 ~~state nor the court fund is required to directly pay for such care.~~

22 E. In no event shall an individual deemed incompetent
23 ~~individual~~ by reason of mental illness be involuntarily committed to
24

1 the legal custody of the Department of Human Services or any of its
2 facilities.

3 1. If the person is not committed to the custody of the
4 Department of Mental Health and Substance Abuse Services, the court
5 shall appoint a medical supervisor for a course of treatment. The
6 medical supervisor of treatment may be any person or agency that
7 agrees to supervise the course of treatment. The proposed treatment
8 may be either inpatient or outpatient care depending on the
9 facilities and resources available to the court and the type of
10 disability sought to be corrected by the order of the court. The
11 court shall require the medical supervisor to provide periodic
12 progress reports to the court and may pay for the services of the
13 medical supervisor from court funds.

14 2. The court may allow the person to receive treatment from
15 private facilities if such facilities are willing. Neither the
16 state nor the court fund shall be required to directly pay for such
17 care.

18 SECTION 5. AMENDATORY 22 O.S. 2021, Section 1175.8, is
19 amended to read as follows:

20 Section 1175.8. ~~If the medical supervisor reports~~ a report from
21 a qualified forensic evaluator opines that the person appears to
22 have achieved competency after a finding of incompetency, the court
23 shall hold another competency hearing within twenty (20) days of
24 receipt of the evaluation to ~~determine if~~ stipulate that the person

1 has achieved competency. If competency has been achieved, the
2 criminal proceedings shall be resumed.

3 SECTION 6. This act shall become effective November 1, 2026.
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