

1 ENGROSSED HOUSE  
2 BILL NO. 3283

By: Kannady of the House

and

Sparks of the Senate

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7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 1007, which relates to procedures  
9 for entering verdicts in death penalty cases;  
10 directing the Department of Mental Health and  
11 Substance Abuse Services to provide competency  
12 restoration services for certain defendants;  
13 authorizing the Department to designate entities to  
14 provide competency restoration services; amending 22  
15 O.S. 2011, Section 1175.6a, as amended by Section 2,  
16 Chapter 300, O.S.L. 2015 (22 O.S. Supp. 2017, Section  
17 1175.6a), which relates to procedures for competency  
18 hearings and civil commitment proceedings; clarifying  
19 competency procedures for preconviction defendants;  
20 and declaring an emergency.

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

22 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1007, is  
23 amended to read as follows:

24 Section 1007. The verdict of the jury must be entered upon the  
minutes and thereupon the court must make and cause to be entered an  
order reciting the fact of such inquiry and the result thereof, and  
when it is found that the defendant is ~~insane~~ not competent because  
he or she is a person requiring treatment, as defined in Section 1-

1 103 of Title 43A of the Oklahoma Statutes, the court shall order  
2 ~~must direct that he be taken to one of the state hospitals for the~~  
3 ~~insane and there kept for safe confinement until his reason is~~  
4 ~~restored~~ the Department of Mental Health and Substance Abuse  
5 Services to provide, where the defendant is currently incarcerated,  
6 treatment, therapy or training which is calculated to allow the  
7 defendant to achieve competency. The Department of Mental Health  
8 and Substance Abuse Services may designate a willing entity to  
9 provide such competency restoration services on behalf of the  
10 Department, provided the entity has qualified personnel.

11 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1175.6a, as  
12 amended by Section 2, Chapter 300, O.S.L. 2015 (22 O.S. Supp. 2017,  
13 Section 1175.6a), is amended to read as follows:

14 Section 1175.6a A. If the person is found to be incompetent  
15 prior to conviction because he or she is a person requiring  
16 treatment as defined in Section 1-103 of Title 43A of the Oklahoma  
17 Statutes, but capable of achieving competence with treatment within  
18 a reasonable period of time as defined by Section 1175.1 of this  
19 title, the court shall suspend the criminal proceedings and order  
20 the Department of Mental Health and Substance Abuse Services to  
21 provide treatment, therapy or training which is calculated to allow  
22 the person to achieve competency. The Department may designate a  
23 willing entity to provide such competency restoration services on  
24 behalf of the Department, provided the entity has qualified

1 personnel. The court shall further order the Department to take  
2 custody of the individual as soon as a forensic bed becomes  
3 available, unless both the Department and the county jail where the  
4 person is being held determine that it is in the best interests of  
5 the person to remain in the county jail. Such competency  
6 restoration services shall begin within a reasonable period of time  
7 after the court has determined that the person is not competent to  
8 stand trial.

9 The person shall remain in the custody of the county jail until  
10 such time as the Department has a bed available at the forensic  
11 facility unless competency restoration services are provided by a  
12 designee of the Department, in which case custody of the person  
13 shall be transferred to the Department.

14 B. The Department of Mental Health and Substance Abuse Services  
15 or designee shall make periodic reports to the court as to the  
16 competency of the defendant.

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

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

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

6           3. If the person is found to be incompetent because the person  
7 is mentally retarded as defined by Title 10 of the Oklahoma  
8 Statutes, the court shall issue the appropriate order as set forth  
9 in Section 1175.6b of this title;

10          4. If the person is found to be incompetent for reasons other  
11 than the person is a person requiring treatment as defined by Title  
12 43A of the Oklahoma Statutes, and other than the person is mentally  
13 retarded as defined in Title 10 of the Oklahoma Statutes, and is  
14 also found to be not dangerous as defined by Section 1175.1 of this  
15 title, the court shall issue the appropriate order as set forth in  
16 Section 1175.6b of this title; or

17          5. If the person is found to be incompetent for reasons other  
18 than the person is a person requiring treatment as defined by Title  
19 43A of the Oklahoma Statutes, and other than the person is mentally  
20 retarded as defined in Title 10 of the Oklahoma Statutes, but is  
21 also found to be dangerous as defined by Section 1175.1 of this  
22 title, the court shall issue the appropriate order as set forth in  
23 Section 1175.6c of this title.

1 D. If the person is found to be incompetent because the person  
2 is a person requiring treatment as defined by Section 1-103 of Title  
3 43A of the Oklahoma Statutes, but not capable of achieving  
4 competence with treatment within a reasonable period of time as  
5 defined by Section 1175.1 of this title, the court shall commence  
6 civil commitment proceedings pursuant to Title 43A and shall dismiss  
7 without prejudice the criminal proceeding. If the person is  
8 subsequently committed to the Department of Mental Health and  
9 Substance Abuse Services pursuant to Title 43A, the statute of  
10 limitations for the criminal charges which were dismissed by the  
11 court shall be tolled until the person is discharged from the  
12 Department of Mental Health and Substance Abuse Services pursuant to  
13 Section 7-101 of Title 43A of the Oklahoma Statutes.

14 SECTION 3. It being immediately necessary for the preservation  
15 of the public peace, health or safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 13th day of March, 2018.

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4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2018.

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9 Presiding Officer of the Senate