

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1113

By: Bergstrom

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2021, Section 1175.6a, which relates to  
9 incompetence of accused; requiring provision of  
10 certain competency restoration services in county  
11 jail if certain condition is not met; allowing  
12 attending physician of forensic facility to provide  
13 treatment under certain conditions; and providing an  
14 effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1175.6a, is  
17 amended to read as follows:

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

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

13 The person shall remain in the custody of the county jail until  
14 such time as the Department has a bed available at the forensic  
15 facility unless competency restoration services are provided by a  
16 designee of the Department, in which case custody of the person  
17 shall be transferred to the Department. If a forensic bed has not  
18 become available within thirty (30) calendar days after the court  
19 has determined that the person is not competent to stand trial, the  
20 Department shall begin providing, or cause its designee to begin  
21 providing, competency restoration services to the person in the  
22 county jail.

23 If the person receives competency restoration services at the  
24 forensic facility, the attending physician of the forensic facility

1 may treat the person as the physician deems necessary without the  
2 consent of the person. The physician shall act in accordance with  
3 applicable law, rule, and standard medical practice. The treatment  
4 may include, but shall not be limited to, the use of medication  
5 including psychotropic medication.

6 B. The Department of Mental Health and Substance Abuse Services  
7 or designee shall make periodic reports to the court as to the  
8 competency of the defendant.

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

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

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

21 3. If the person is found to be incompetent because the person  
22 is intellectually disabled as defined by Title 10 of the Oklahoma  
23 Statutes, the court shall issue the appropriate order as set forth  
24 in Section 1175.6b of this title;

1           4. If the person is found to be incompetent for reasons other  
2 than the person is a person requiring treatment as defined by Title  
3 43A of the Oklahoma Statutes, and other than the person is  
4 intellectually disabled as defined in Title 10 of the Oklahoma  
5 Statutes, and is also found to be not dangerous as defined by  
6 Section 1175.1 of this title, the court shall issue the appropriate  
7 order as set forth in Section 1175.6b of this title; or

8           5. If the person is found to be incompetent for reasons other  
9 than the person is a person requiring treatment as defined by Title  
10 43A of the Oklahoma Statutes, and other than the person is  
11 intellectually disabled as defined in Title 10 of the Oklahoma  
12 Statutes, but is also found to be dangerous as defined by Section  
13 1175.1 of this title, the court shall issue the appropriate order as  
14 set forth in Section 1175.6c of this title.

15           D. If the person is found to be incompetent because the person  
16 is a person requiring treatment as defined by Section 1-103 of Title  
17 43A of the Oklahoma Statutes, but not capable of achieving  
18 competence with treatment within a reasonable period of time as  
19 defined by Section 1175.1 of this title, the court shall commence  
20 civil commitment proceedings pursuant to Title 43A and shall dismiss  
21 without prejudice the criminal proceeding. If the person is  
22 subsequently committed to the Department of Mental Health and  
23 Substance Abuse Services pursuant to Title 43A, the statute of  
24 limitations for the criminal charges which were dismissed by the

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court shall be tolled until the person is discharged from the  
Department of Mental Health and Substance Abuse Services pursuant to  
Section 7-101 of Title 43A of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2022.

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