

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1089

6 By: Rosino of the Senate

7 and

8 Lawson of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to determination of competency;  
11 amending 22 O.S. 2021, Sections 1175.1, as amended by  
12 Section 1, Chapter 73, O.S.L. 2024, and 1175.6a (22  
13 O.S. Supp. 2024, Section 1175.1), which relate to  
14 definitions and persons capable of achieving  
15 competence; modifying definition; directing court to  
16 conduct competency proceedings for certain persons;  
17 establishing procedures for court to conduct  
18 competency proceedings for certain persons; requiring  
19 criminal proceedings to resume upon certain  
20 determination; requiring additional competency  
21 restoration services upon certain determination;  
22 requiring commencement of civil commitment  
23 proceedings upon certain determination; tolling  
24 statute of limitations under certain circumstances;  
amending 43A O.S. 2021, Sections 1-103, as last  
amended by Section 1, Chapter 96, O.S.L. 2024, and 7-  
101 (43A O.S. Supp. 2024, Section 1-103), which  
relate to definitions and discharge or permission to  
leave facility; modifying definition; establishing  
requirements for certain civil commitment upon  
dismissal of certain criminal charges; requiring  
certain reporting by Department of Mental Health and  
Substance Abuse Services; requiring certain notice;  
authorizing filing of certain objection; establishing  
procedures for hearing on certain discharge;  
requiring appointment of counsel under certain  
circumstances; requiring court to make certain  
determination; authorizing appeal of certain court

1 order; authorizing stay of certain order;  
2 establishing standards for certain review; clarifying  
3 applicability of provisions; updating statutory  
4 references; updating statutory language; and  
5 providing an effective date.

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

7 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1175.1, as  
8 amended by Section 1, Chapter 73, O.S.L. 2024 (22 O.S. Supp. 2024,  
9 Section 1175.1), is amended to read as follows:

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

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

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

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

23 4. "Incompetent" or "incompetency" means the present inability  
24 of a person arrested for or charged with a crime to understand the

1 nature of the charges and proceedings brought against him or her and  
2 to effectively and rationally assist in his or her defense;

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

6 6. "Qualified forensic examiner" means any:

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

18 7. "Reasonable period of time" means a period not to exceed the  
19 lesser of:

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

23 Any time period where the defendant refuses medication  
24 prescribed or ordered that is designed to restore the defendant to

1 competency shall not be used in the calculation of a reasonable  
2 period of time.

3 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1175.6a, is  
4 amended to read as follows:

5 Section 1175.6a. A. If the person is found to be incompetent  
6 prior to conviction because he or she is a person requiring  
7 treatment as defined in Section 1-103 of Title 43A of the Oklahoma  
8 Statutes, but capable of achieving competence with treatment within  
9 a reasonable period of time as defined by Section 1175.1 of this  
10 title, the court shall suspend the criminal proceedings and order  
11 the Department of Mental Health and Substance Abuse Services to  
12 provide treatment, therapy or training which is calculated to allow  
13 the person to achieve competency. The Department may designate a  
14 willing entity to provide such competency restoration services on  
15 behalf of the Department, provided the entity has qualified  
16 personnel. The court shall further order the Department to take  
17 custody of the individual as soon as a forensic bed becomes  
18 available, unless both the Department and the county jail where the  
19 person is being held determine that it is in the best interests of  
20 the person to remain in the county jail. Such competency  
21 restoration services shall begin within a reasonable period of time  
22 after the court has determined that the person is not competent to  
23 stand trial.

24

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

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 Section 1-103 of Title 43A  
13 of the Oklahoma Statutes, a hearing shall be scheduled within twenty  
14 (20) days:

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

17 2. If the person is found to continue to be incompetent because  
18 the person is a person requiring treatment as defined in Section 1-  
19 103 of Title 43A of the Oklahoma Statutes, the person shall be  
20 returned to the custody of the Department of Mental Health and  
21 Substance Abuse Services or designee;

22 3. If the person is found to be incompetent because the person  
23 is ~~intellectually disabled~~ an individual with intellectual  
24 disability as defined by Section 1408 of Title 10 of the Oklahoma

1 Statutes, the court shall issue the appropriate order as set forth  
2 in Section 1175.6b of this title;

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

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

19 D. If the person is found to be incompetent because the person  
20 is a person requiring treatment as defined by Section 1-103 of Title  
21 43A of the Oklahoma Statutes, but not capable of achieving  
22 competence with treatment within a reasonable period of time as  
23 defined by Section 1175.1 of this title, the court shall commence  
24 civil commitment proceedings pursuant to Title 43A of the Oklahoma

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

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

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

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

24

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

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

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



1                   the Department pursuant to Section 7-101 of Title 43A  
2                   of the Oklahoma Statutes.

3           SECTION 3.           AMENDATORY           43A O.S. 2021, Section 1-103, as  
4 last amended by Section 1, Chapter 96, O.S.L. 2024 (43A O.S. Supp.  
5 2024, Section 1-103), is amended to read as follows:

6           Section 1-103. When used in this title, unless otherwise  
7 expressly stated, or unless the context or subject matter otherwise  
8 requires:

9           1. "Department" means the Department of Mental Health and  
10 Substance Abuse Services;

11           2. "Chair" means the chair of the Board of Mental Health and  
12 Substance Abuse Services;

13           3. "Mental illness" means a substantial disorder of thought,  
14 mood, perception, psychological orientation or memory that  
15 significantly impairs judgment, behavior, capacity to recognize  
16 reality or ability to meet the ordinary demands of life;

17           4. "Board" means the Board of Mental Health and Substance Abuse  
18 Services as established by the Mental Health Law;

19           5. "Commissioner" means the Commissioner of Mental Health and  
20 Substance Abuse Services;

21           6. "Indigent person" means a person who does not have  
22 sufficient assets or resources to support the person and to support  
23 members of the family of the person lawfully dependent on the person  
24 for support;

1       7. "Facility" means any hospital, school, building, house or  
2 retreat, authorized by law to have the care, treatment or custody of  
3 an individual with mental illness, drug or alcohol dependency,  
4 gambling addiction, or an eating disorder including, but not limited  
5 to, public or private hospitals, community mental health centers,  
6 clinics, satellites, and community-based structured crisis centers;  
7 provided, that facility shall not mean a child guidance center  
8 operated by the State Department of Health;

9       8. "Consumer" means a person under care or treatment in a  
10 facility pursuant to the Mental Health Law, or in an outpatient  
11 status;

12       9. "Care and treatment" means medical care and behavioral  
13 health services, as well as food, clothing and maintenance,  
14 furnished to a person;

15       10. Whenever in this law or in any other law, or in any rule or  
16 order made or promulgated pursuant to this law or to any other law,  
17 or in the printed forms prepared for the admission of consumers or  
18 for statistical reports, the words "insane", "insanity", "lunacy",  
19 "mentally sick", "mental disease" or "mental disorder" are used,  
20 such terms shall have equal significance to the words "mental  
21 illness";

22       11. "Licensed mental health professional" means:

23           a. a psychiatrist who is a diplomate of the American  
24                Board of Psychiatry and Neurology,

- 1           b.    a psychiatrist who is a diplomate of the American  
2                    Osteopathic Board of Neurology and Psychiatry,  
3           c.    a physician licensed pursuant to the Oklahoma  
4                    Allopathic Medical and Surgical Licensure and  
5                    Supervision Act or the Oklahoma Osteopathic Medicine  
6                    Act,  
7           d.    a clinical psychologist who is duly licensed to  
8                    practice by the State Board of Examiners of  
9                    Psychologists,  
10          e.    a professional counselor licensed pursuant to the  
11                    Licensed Professional Counselors Act,  
12          f.    a person licensed as a clinical social worker pursuant  
13                    to the provisions of the Social Worker's Licensing  
14                    Act,  
15          g.    a licensed marital and family therapist as defined in  
16                    the Marital and Family Therapist Licensure Act,  
17          h.    a licensed behavioral practitioner as defined in the  
18                    Licensed Behavioral Practitioner Act,  
19          i.    an advanced practice nurse as defined in the Oklahoma  
20                    Nursing Practice Act,  
21          j.    a physician's assistant who is licensed in good  
22                    standing in this state, or  
23  
24

1 k. a licensed alcohol and drug counselor/mental health  
2 (LADC/MH) as defined in the Licensed Alcohol and Drug  
3 Counselors Act;

4 12. "Mentally incompetent person" means any person who has been  
5 adjudicated mentally or legally incompetent by an appropriate  
6 district court;

7 13. a. "Person requiring treatment" means a person who  
8 because of his or her mental illness or drug or  
9 alcohol dependency meets at least one of the  
10 following:

11 (1) poses a substantial risk of immediate physical  
12 harm to self as manifested by evidence or serious  
13 threats of or attempts at suicide or other  
14 significant self-inflicted bodily harm,

15 (2) poses a substantial risk of immediate physical  
16 harm to another person or persons as manifested  
17 by evidence of violent behavior directed toward  
18 another person or persons,

19 (3) has placed another person or persons in a  
20 reasonable fear of violent behavior directed  
21 towards such person or persons or serious  
22 physical harm to them as manifested by serious  
23 and immediate threats,  
24

1 (4) is in a condition of severe deterioration that is  
2 continuing, as has been observed within the  
3 previous ~~seventy-two (72) hour~~ seventy-two-hour  
4 period such that, without immediate intervention,  
5 there exists a substantial risk that severe  
6 impairment or injury will result to the person,  
7 or

8 (5) poses a substantial risk of immediate serious  
9 physical injury to self or death as manifested by  
10 evidence that the person is unable to provide for  
11 and is not providing for his or her basic  
12 physical needs.

13 b. To the extent it is reasonably available, the relevant  
14 mental health or substance abuse history of the person  
15 shall be considered and may be proffered as part of  
16 the evidence to determine whether the person is a  
17 person requiring treatment or an assisted outpatient.  
18 The mental health or substance abuse history of the  
19 person shall not be the sole basis for this  
20 determination.

21 c. In determining whether the person is a person  
22 requiring treatment, the following shall also be  
23 considered along with any other relevant information:  
24

- 1           (1) the person's history of violence or criminal acts  
2           including unadjudicated criminal acts if evidence  
3           of the person's culpability is evident or  
4           established,
- 5           (2) the person's history of compliance with mental  
6           and behavioral health medication and treatment,
- 7           (3) the probability and result of the person's  
8           noncompliance with medication and treatment if  
9           not committed,
- 10          (4) the consumer's history of using weapons in an  
11          illegal or unsafe manner, and
- 12          (5) any previous instances of harm, attempted harm,  
13          or threatened harm to self or others.

14          d. Unless a person also meets the criteria established in  
15          subparagraph a ~~or~~, b, or c of this paragraph, "person  
16          requiring treatment" or an "assisted outpatient" shall  
17          not mean:

- 18           (1) a person whose mental processes have been  
19           weakened or impaired by reason of advanced years,  
20           dementia, or Alzheimer's disease,
- 21           (2) a person who is an individual with intellectual  
22           disability or developmental disability as defined  
23           in Section 1408 of Title 10 of the Oklahoma  
24           Statutes,

- (3) a person with seizure disorder,
- (4) a person with a traumatic brain injury, or
- (5) a person who is homeless.

~~d.~~ e.

(1) A person who meets the criteria established in this paragraph but who is medically unstable may be discharged and transported in accordance with Section 1-110 of this title. Alternatively, if the facility holding the person is able to treat the additional medical conditions of that person, the facility may treat the additional medical conditions in an effort to medically stabilize the patient.

(2) If the facility holding the person is unable to treat the additional medical conditions of a person who meets the criteria established in this paragraph, the patient shall be discharged and transported in accordance with Section 1-110 of this title.

(3) All time elapsed during medical stabilization tolls the ~~twelve (12) hour~~ twelve-hour time for an initial assessment pursuant to paragraph 1 of subsection A of Section 5-208 of this title, and the one-hundred-twenty-hour emergency detention

1                   time pursuant to paragraph 3 of subsection A of  
2                   Section 5-208 of this title;

3           14. "Petitioner" means a person who files a petition alleging  
4 that an individual is a person requiring treatment or an assisted  
5 outpatient;

6           15. "Executive director" means the person in charge of a  
7 facility as defined in this section;

8           16. "Private hospital or facility" means any general hospital  
9 maintaining a neuro-psychiatric unit or ward, or any private  
10 hospital or facility for care and treatment of a person having a  
11 mental illness, which is not supported by the state or federal  
12 government. The term "private hospital" or "facility" shall not  
13 include nursing homes or other facilities maintained primarily for  
14 the care of elderly and disabled persons;

15           17. "Individualized treatment plan" means a proposal developed  
16 during the stay of an individual in a facility, under the provisions  
17 of this title, which is specifically tailored to the treatment needs  
18 of the individual. Each plan shall clearly include the following:

19           a. a statement of treatment goals or objectives, based  
20           upon and related to a clinical evaluation, which can  
21           be reasonably achieved within a designated time  
22           interval,

23           b. treatment methods and procedures to be used to obtain  
24           these goals, which methods and procedures are related



1 to each of these goals and which include specific  
2 prognosis for achieving each of these goals,

3 c. identification of the types of professional personnel  
4 who will carry out the treatment procedures including  
5 appropriate medical or other professional involvement  
6 by a physician or other health professional properly  
7 qualified to fulfill legal requirements mandated under  
8 state and federal law,

9 d. documentation of involvement by the individual  
10 receiving treatment and, if applicable, the accordence  
11 of the individual with the treatment plan, and

12 e. a statement attesting that the executive director of  
13 the facility or clinical director has made a  
14 reasonable effort to meet the plan's individualized  
15 treatment goals in the least restrictive environment  
16 possible closest to the home community of the  
17 individual;

18 18. "Telemedicine" means technology-enabled health and care  
19 management and delivery systems that extend capacity and access,  
20 which includes:

21 a. synchronous mechanisms, which may include live  
22 audiovisual interaction between a patient and a health  
23 care professional or real-time provider to provider  
24

1           consultation through live interactive audiovisual  
2           means,

3           b.   asynchronous mechanisms, which include store and  
4           forward transfers, online exchange of health  
5           information between a patient and a health care  
6           professional and online exchange of health information  
7           between health care professionals, but shall not  
8           include the use of automated text messages or  
9           automated mobile applications that serve as the sole  
10          interaction between a patient and a health care  
11          professional,

12          c.   remote patient monitoring, and

13          d.   other electronic means that support clinical health  
14          care, professional consultation, patient and  
15          professional health-related education, public health  
16          and health administration;

17          19.   "Recovery and recovery support" means nonclinical services  
18          that assist individuals and families to recover from alcohol or drug  
19          problems. They include social support, linkage to and coordination  
20          among allied service providers including but not limited to  
21          transportation to and from treatment or employment, employment  
22          services and job training, case management and individual services  
23          coordination, life skills education, relapse prevention, housing  
24          assistance, child care, and substance abuse education;

1       20. "Assisted outpatient" means a person who:

2           a. is either currently under the care of a facility  
3               certified by the Department of Mental Health and  
4               Substance Abuse Services as a ~~Community Mental Health~~  
5               ~~Center~~ community mental health center, or is being  
6               discharged from the custody of the ~~Oklahoma~~ Department  
7               of Corrections, or is being discharged from a  
8               residential placement by the Office of Juvenile  
9               Affairs,

10          b. is suffering from a mental illness,

11          c. is unlikely to survive safely in the community without  
12               supervision, based on a clinical determination,

13          d. has a history of lack of compliance with treatment for  
14               mental illness that has:

15               (1) prior to the filing of a petition, at least twice  
16                       within the last thirty-six (36) months been a  
17                       significant factor in necessitating  
18                       hospitalization or treatment in a hospital or  
19                       residential facility including admission to a  
20                       community-based structured crisis center as  
21                       certified by the ~~Oklahoma~~ Department of Mental  
22                       Health and Substance Abuse Services, or receipt  
23                       of services in a forensic or other mental health  
24                       unit of a correctional facility, or a specialized

1 treatment plan for treatment of mental illness in  
2 a secure juvenile facility or placement in a  
3 specialized residential program for juveniles, or  
4 (2) prior to the filing of the petition, resulted in  
5 one or more acts of serious violent behavior  
6 toward self or others or threats of, or attempts  
7 at, serious physical harm to self or others  
8 within the last twenty-four (24) months,

9 e. is, as a result of his or her mental illness, unlikely  
10 to voluntarily participate in outpatient treatment  
11 that would enable him or her to live safely in the  
12 community,

13 f. in view of his or her treatment history and current  
14 behavior, is in need of assisted outpatient treatment  
15 in order to prevent a relapse or deterioration which  
16 would be likely to result in serious harm to the  
17 person or persons ~~as defined in this section~~, and

18 g. is likely to benefit from assisted outpatient  
19 treatment;

20 21. "Assisted outpatient treatment" means outpatient services  
21 which have been ordered by the court pursuant to a treatment plan  
22 approved by the court to treat an assisted outpatient's mental  
23 illness and to assist the person in living and functioning in the  
24 community, or to attempt to prevent a relapse or deterioration that

1 may reasonably be predicted to result in suicide or the need for  
2 hospitalization; and

3 22. "Urgent recovery clinic" means a clinic that offers  
4 voluntary services aimed at the assessment and immediate  
5 stabilization of acute symptoms of mental illness, alcohol and other  
6 drug abuse, and emotional distress. Unless the person receiving  
7 treatment consents to a longer duration or unless the person is  
8 placed into emergency detention under Sections 5-206 through 5-209  
9 of this title, no more than twenty-three (23) hours and fifty-nine  
10 (59) minutes of services may be provided to a consumer during one  
11 episode of care at an urgent recovery clinic.

12 SECTION 4. AMENDATORY 43A O.S. 2021, Section 7-101, is  
13 amended to read as follows:

14 Section 7-101. A. The person in charge of a facility within  
15 the Department of Mental Health and Substance Abuse Services shall  
16 discharge a consumer or permit the consumer to leave the facility as  
17 provided in this section.

18 B. The person in charge shall discharge a consumer:

19 1. Who is no longer a risk to self or others as ~~defined in~~  
20 provided by Section 1-103 of this title;

21 2. Who is capable of surviving safely in freedom alone or with  
22 the help of other state agencies, private entities, or willing and  
23 responsible family members or friends; provided, however, nothing in  
24 this section or Section 7-102 of this title shall be construed as

1 requiring any state agency or private entity to provide services  
2 except as voluntarily agreed to by the agency and consumer; and

3 3. For whom a discharge plan has been developed pursuant to the  
4 provisions of Section 7-102 of this title.

5 C. The person in charge may grant a convalescent leave or  
6 visiting status to a consumer in accordance with policies prescribed  
7 by the Commissioner of Mental Health and Substance Abuse Services.  
8 The facility granting a convalescent leave or visiting status to a  
9 consumer has no responsibility in returning the consumer to the  
10 facility should such become necessary. A convalescent leave or  
11 visiting status may be granted rather than a discharge when the  
12 complete recovery of the consumer can be determined only by  
13 permitting the consumer to leave the facility. The person in charge  
14 shall discharge a consumer who has not returned to the facility  
15 within twelve (12) months from the time a convalescent leave or  
16 visiting status was granted. Any return from convalescent leave or  
17 visiting status must be on a voluntary basis.

18 D. In accordance with policies prescribed by the Commissioner, a  
19 person in charge may transfer a consumer to an outpatient or other  
20 nonhospital status when, in the opinion of the person in charge, such  
21 transfer will not be detrimental to the public welfare or injurious  
22 to the consumer and the necessary treatment may be continued on that  
23 basis; provided, however, that before transferring the consumer, the  
24 person in charge shall ensure that appropriate financial resources

1 and appropriate services are available to receive and care for such  
2 consumer after such transfer.

3 E. The person in charge of the facility shall notify the court  
4 that committed the consumer that the consumer has been discharged.  
5 Such notification shall be within forty-eight (48) hours after the  
6 actual discharge.

7 F. If the consumer was committed after the dismissal of criminal  
8 charges pursuant to the provisions of Section 1175.6a of Title 22 of  
9 the Oklahoma Statutes:

10 1. The Department shall continue all appropriate efforts to  
11 restore the consumer to competency as defined by Section 1175.1 of  
12 Title 22 of the Oklahoma Statutes during the consumer's commitment;

13 2. The Department shall evaluate the consumer for competency and  
14 issue a written report detailing the consumer's progress in regaining  
15 competency to the attorney of the consumer, the district court that  
16 dismissed the criminal action, and the district attorney or other  
17 prosecuting agency that prosecuted the dismissed criminal action at  
18 least once every year;

19 3. The Department shall notify the consumer, the attorney of the  
20 consumer, the prosecuting agency that prosecuted the dismissed  
21 criminal action, and the district court that committed the consumer  
22 no less than sixty (60) days prior to any discharge, leave, granting  
23 of visiting status, or transfer of the consumer. Contemporaneously  
24 with the notice, the Department shall provide a written report

1 evaluating the consumer's risk to self and others if released, the  
2 consumer's status and progress in regaining competency, the  
3 consumer's current and historical compliance with medication and  
4 treatment, and any discharge plan developed for the consumer;

5 4. The prosecuting agency that prosecuted the dismissed criminal  
6 action may file with the district court that committed the consumer  
7 an objection to the consumer's discharge, leave, granting of visiting  
8 status, or transfer within thirty (30) days of receipt of notice  
9 pursuant to paragraph 3 of this subsection. The prosecuting agency  
10 shall, regardless of whether an objection is filed, make reasonable  
11 efforts to notify all alleged victims in the dismissed criminal  
12 action, or if an alleged victim is deceased, his or her family, of  
13 the Department's planned discharge, leave, granting of visiting  
14 status, or transfer of the consumer;

15 5. The court shall hold a hearing within thirty (30) days of the  
16 filing of an objection by the prosecuting agency to determine whether  
17 the consumer's planned discharge, leave, granting of visiting status,  
18 or transfer should occur. The consumer shall be entitled to counsel  
19 at the hearing and in preparation for the hearing. If the consumer  
20 does not have counsel, the court shall appoint an attorney to  
21 represent the person at no cost if the person is indigent and cannot  
22 afford an attorney. The hearing may be continued either by agreement  
23 of the parties or upon good cause shown. The prosecuting agency  
24 objecting to the consumer's discharge, leave, granting of visiting



1 status, or transfer shall bear the burden of proof, by clear and  
2 convincing evidence, that the planned discharge, leave, granting of  
3 visiting status, or transfer should not be granted. In the event of  
4 a planned discharge pursuant to subsection B of this section, the  
5 court shall determine whether the criteria contained within  
6 subsection B of this section has been met. In the event of a  
7 convalescent leave, granting of visiting status, or transfer pursuant  
8 to subsection C or D of this section, the court shall determine  
9 whether the applicable criteria have been met and whether the leave,  
10 granting of visiting status, or transfer is in the best interest of  
11 the consumer and in the best interest of public safety. The court  
12 shall enter the appropriate order which shall include written  
13 findings of fact and conclusions of law and specify its effective  
14 date;

15 6. An order entered pursuant to this subsection may be appealed  
16 by either the consumer or the prosecuting agency to the Supreme Court  
17 in accordance with the rules of the Supreme Court. The district  
18 court, the Supreme Court, or the Court of Civil Appeals, if assigned,  
19 may stay an order granting discharge, leave, visiting status, or  
20 transfer pending appeal. On appeal, the district court's findings of  
21 facts shall be reviewed for an abuse of discretion while the legal  
22 conclusions of the district court shall be reviewed de novo. If the  
23 prosecuting agency appeals an order granting the consumer's  
24 discharge, leave, visiting status, or transfer and the order has been

1 stayed pending appeal, the appellate court shall resolve the appeal  
2 in an expedited manner; and

3 7. The provisions of this subsection shall apply to all persons  
4 subject to such terms regardless of whether the person's criminal  
5 charge or commitment occurred before or after the effective date of  
6 this act.

7 G. The expense of returning a consumer from convalescent leave,  
8 outpatient status or visiting status shall be that of:

9 1. The party removing the consumer from the facility; or

10 2. The Department. When it becomes necessary for the consumer  
11 to be returned from the county where the consumer happens to be, the  
12 Department shall reimburse the county pursuant to the provisions of  
13 the State Travel Reimbursement Act.

14 ~~G.~~ H. In the event authorization is necessary to accomplish the  
15 return of the consumer to the facility, such authority is hereby  
16 vested in the judge of the district court in the county where the  
17 consumer is located. Upon receipt of notice that the consumer needs  
18 to be returned to the facility, the judge shall cause the consumer to  
19 be brought before the court by issuance of a citation directed to the  
20 consumer to appear and show cause why the consumer should not be  
21 returned to the facility. The judge shall, if clear and convincing  
22 evidence is presented by testimony under oath that the consumer  
23 should be returned to the facility, enter an order returning the  
24 consumer. If there is a lack of clear and convincing evidence

1 showing the necessity of such return, the consumer shall immediately  
2 be released. Law enforcement officers are authorized to take into  
3 custody, detain and transport a consumer pursuant to a citation or an  
4 order of the judge of the district court.

5 ~~H.~~ I. An attending physician of any consumer admitted to a  
6 private facility may discharge a consumer or permit the consumer to  
7 leave the facility subject to the same provisions applicable to the  
8 discharge or release of a consumer by the person in charge of a state  
9 facility.

10 SECTION 5. This act shall become effective November 1, 2025.

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