

# An Act

ENROLLED SENATE  
BILL NO. 1089

By: Rosino of the Senate

and

Lawson of the House

An Act relating to determination of competency; amending 22 O.S. 2021, Sections 1175.1, as amended by Section 1, Chapter 73, O.S.L. 2024, and 1175.6a (22 O.S. Supp. 2024, Section 1175.1), which relate to definitions and persons capable of achieving competence; modifying definition; directing court to conduct competency proceedings for certain persons; establishing procedures for court to conduct competency proceedings for certain persons; requiring criminal proceedings to resume upon certain determination; requiring additional competency restoration services upon certain determination; requiring commencement of civil commitment proceedings upon certain determination; tolling 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 order; authorizing stay of certain order; establishing standards for certain review; clarifying applicability of provisions; updating statutory

references; updating statutory language; and providing an effective date.

SUBJECT: Determination of competency

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

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

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

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

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

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

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

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

6. "Qualified forensic examiner" means any:

a. psychiatrist with forensic training and experience,

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

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

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

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

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

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

available, unless both the Department and the county jail where the person is being held determine that it is in the best interests of the person to remain in the county jail. Such competency restoration services shall begin within a reasonable period of time after the court has determined that the person is not competent to stand trial.

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

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

C. If the person is determined by the Department of Mental Health and Substance Abuse Services or designee to have regained competency, or is no longer incompetent because the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes, a hearing shall be scheduled within twenty (20) days:

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

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

3. If the person is found to be incompetent because the person is intellectually disabled an individual with intellectual disability as defined by Section 1408 of Title 10 of the Oklahoma Statutes, the court shall issue the appropriate order as set forth in Section 1175.6b of this title;

4. If the person is found to be incompetent for reasons other than the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes, and other than

the person is ~~intellectually disabled~~ an individual with intellectual disability as defined in Section 1408 of Title 10 of the Oklahoma Statutes, and is also found to be not dangerous as defined by Section 1175.1 of this title, the court shall issue the appropriate order as set forth in Section 1175.6b of this title; or

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

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

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

1. No less than fifteen (15) days prior to the hearing the Department of Mental Health and Substance Abuse Services shall submit a report to the court, the person's attorney, and the prosecuting agency detailing the person's status and progress in being restored to competency including the person's historical and current compliance with medication and treatment and a plan for

competency restoration if additional competency restoration services are ordered by the court.

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

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

- a. likely to be beneficial in restoring the person to competency, the court shall order the person to remain in or be transferred to the custody of the Department which shall continue to provide treatment, therapy, or training calculated to restore the person to competency for a period of time not to exceed the lesser of an additional two (2) years or the maximum sentence specified for the most serious offense with which the defendant is charged, or
- b. not likely to be beneficial in restoring the person to competency, the court shall commence civil commitment proceedings pursuant to Title 43A of the Oklahoma Statutes and shall dismiss without prejudice the criminal proceeding. If the person is subsequently committed to the Department pursuant to Title 43A of the Oklahoma Statutes, the statute of limitations for the criminal charges which were dismissed by the court shall be tolled until the person is discharged from the Department pursuant to Section 7-101 of Title 43A of the Oklahoma Statutes.

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

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

1. "Department" means the Department of Mental Health and Substance Abuse Services;
2. "Chair" means the chair of the Board of Mental Health and Substance Abuse Services;
3. "Mental illness" means a substantial disorder of thought, mood, perception, psychological orientation or memory that significantly impairs judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life;
4. "Board" means the Board of Mental Health and Substance Abuse Services as established by the Mental Health Law;
5. "Commissioner" means the Commissioner of Mental Health and Substance Abuse Services;
6. "Indigent person" means a person who does not have sufficient assets or resources to support the person and to support members of the family of the person lawfully dependent on the person for support;
7. "Facility" means any hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of an individual with mental illness, drug or alcohol dependency, gambling addiction, or an eating disorder including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites, and community-based structured crisis centers; provided, that facility shall not mean a child guidance center operated by the State Department of Health;
8. "Consumer" means a person under care or treatment in a facility pursuant to the Mental Health Law, or in an outpatient status;
9. "Care and treatment" means medical care and behavioral health services, as well as food, clothing and maintenance, furnished to a person;
10. Whenever in this law or in any other law, or in any rule or order made or promulgated pursuant to this law or to any other law,

or in the printed forms prepared for the admission of consumers or for statistical reports, the words "insane", "insanity", "lunacy", "mentally sick", "mental disease" or "mental disorder" are used, such terms shall have equal significance to the words "mental illness";

11. "Licensed mental health professional" means:

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,
- b. a psychiatrist who is a diplomate of the American Osteopathic Board of Neurology and Psychiatry,
- c. a physician licensed pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act,
- d. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,
- e. a professional counselor licensed pursuant to the Licensed Professional Counselors Act,
- f. a person licensed as a clinical social worker pursuant to the provisions of the Social Worker's Licensing Act,
- g. a licensed marital and family therapist as defined in the Marital and Family Therapist Licensure Act,
- h. a licensed behavioral practitioner as defined in the Licensed Behavioral Practitioner Act,
- i. an advanced practice nurse as defined in the Oklahoma Nursing Practice Act,
- j. a physician's assistant who is licensed in good standing in this state, or

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

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

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

- (1) poses a substantial risk of immediate physical harm to self as manifested by evidence or serious threats of or attempts at suicide or other significant self-inflicted bodily harm,
- (2) poses a substantial risk of immediate physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons,
- (3) has placed another person or persons in a reasonable fear of violent behavior directed towards such person or persons or serious physical harm to them as manifested by serious and immediate threats,
- (4) is in a condition of severe deterioration that is continuing, as has been observed within the previous ~~seventy-two (72) hour~~ seventy-two-hour period such that, without immediate intervention, there exists a substantial risk that severe impairment or injury will result to the person, or
- (5) poses a substantial risk of immediate serious physical injury to self or death as manifested by evidence that the person is unable to provide for and is not providing for his or her basic physical needs.

- b. To the extent it is reasonably available, the relevant mental health or substance abuse history of the person shall be considered and may be proffered as part of the evidence to determine whether the person is a person requiring treatment or an assisted outpatient. The mental health or substance abuse history of the person shall not be the sole basis for this determination.
- c. In determining whether the person is a person requiring treatment, the following shall also be considered along with any other relevant information:
- (1) the person's history of violence or criminal acts including unadjudicated criminal acts if evidence of the person's culpability is evident or established,
  - (2) the person's history of compliance with mental and behavioral health medication and treatment,
  - (3) the probability and result of the person's noncompliance with medication and treatment if not committed,
  - (4) the consumer's history of using weapons in an illegal or unsafe manner, and
  - (5) any previous instances of harm, attempted harm, or threatened harm to self or others.
- d. Unless a person also meets the criteria established in subparagraph a or, b, or c of this paragraph, "person requiring treatment" or an "assisted outpatient" shall not mean:
- (1) a person whose mental processes have been weakened or impaired by reason of advanced years, dementia, or Alzheimer's disease,

- (2) a person who is an individual with intellectual disability or developmental disability as defined in Section 1408 of Title 10 of the Oklahoma 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 time pursuant to paragraph 3 of subsection A of Section 5-208 of this title;

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

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

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

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

- a. a statement of treatment goals or objectives, based upon and related to a clinical evaluation, which can be reasonably achieved within a designated time interval,
- b. treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to each of these goals and which include specific prognosis for achieving each of these goals,
- c. identification of the types of professional personnel who will carry out the treatment procedures including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law,
- d. documentation of involvement by the individual receiving treatment and, if applicable, the accordance of the individual with the treatment plan, and
- e. a statement attesting that the executive director of the facility or clinical director has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the home community of the individual;

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

- a. synchronous mechanisms, which may include live audiovisual interaction between a patient and a health care professional or real-time provider to provider consultation through live interactive audiovisual means,
- b. asynchronous mechanisms, which include store and forward transfers, online exchange of health information between a patient and a health care professional and online exchange of health information between health care professionals, but shall not include the use of automated text messages or automated mobile applications that serve as the sole interaction between a patient and a health care professional,
- c. remote patient monitoring, and
- d. other electronic means that support clinical health care, professional consultation, patient and professional health-related education, public health and health administration;

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

20. "Assisted outpatient" means a person who:

- a. is either currently under the care of a facility certified by the Department of Mental Health and Substance Abuse Services as a ~~Community Mental Health Center~~ community mental health center, or is being

discharged from the custody of the Oklahoma Department of Corrections, or is being discharged from a residential placement by the Office of Juvenile Affairs,

- b. is suffering from a mental illness,
- c. is unlikely to survive safely in the community without supervision, based on a clinical determination,
- d. has a history of lack of compliance with treatment for mental illness that has:
  - (1) prior to the filing of a petition, at least twice within the last thirty-six (36) months been a significant factor in necessitating hospitalization or treatment in a hospital or residential facility including admission to a community-based structured crisis center as certified by the Oklahoma Department of Mental Health and Substance Abuse Services, or receipt of services in a forensic or other mental health unit of a correctional facility, or a specialized treatment plan for treatment of mental illness in a secure juvenile facility or placement in a specialized residential program for juveniles, or
  - (2) prior to the filing of the petition, resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others within the last twenty-four (24) months,
- e. is, as a result of his or her mental illness, unlikely to voluntarily participate in outpatient treatment that would enable him or her to live safely in the community,
- f. in view of his or her treatment history and current behavior, is in need of assisted outpatient treatment in order to prevent a relapse or deterioration which

would be likely to result in serious harm to the person or persons ~~as defined in this section~~, and

- g. is likely to benefit from assisted outpatient treatment;

21. "Assisted outpatient treatment" means outpatient services which have been ordered by the court pursuant to a treatment plan approved by the court to treat an assisted outpatient's mental illness and to assist the person in living and functioning in the community, or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization; and

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

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

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

B. The person in charge shall discharge a consumer:

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

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

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

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

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

D. In accordance with policies prescribed by the Commissioner, a person in charge may transfer a consumer to an outpatient or other nonhospital status when, in the opinion of the person in charge, such transfer will not be detrimental to the public welfare or injurious to the consumer and the necessary treatment may be continued on that basis; provided, however, that before transferring the consumer, the person in charge shall ensure that appropriate financial resources and appropriate services are available to receive and care for such consumer after such transfer.

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

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

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

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

3. The Department shall notify the consumer, the attorney of the consumer, the prosecuting agency that prosecuted the dismissed criminal action, and the district court that committed the consumer no less than sixty (60) days prior to any discharge, leave, granting of visiting status, or transfer of the consumer. Contemporaneously with the notice, the Department shall provide a written report evaluating the consumer's risk to self and others if released, the consumer's status and progress in regaining competency, the consumer's current and historical compliance with medication and treatment, and any discharge plan developed for the consumer;

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

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

visiting status, or transfer should not be granted. In the event of a planned discharge pursuant to subsection B of this section, the court shall determine whether the criteria contained within subsection B of this section has been met. In the event of a convalescent leave, granting of visiting status, or transfer pursuant to subsection C or D of this section, the court shall determine whether the applicable criteria have been met and whether the leave, granting of visiting status, or transfer is in the best interest of the consumer and in the best interest of public safety. The court shall enter the appropriate order which shall include written findings of fact and conclusions of law and specify its effective date;

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

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

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

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

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

G. H. In the event authorization is necessary to accomplish the return of the consumer to the facility, such authority is hereby vested in the judge of the district court in the county where the consumer is located. Upon receipt of notice that the consumer needs to be returned to the facility, the judge shall cause the consumer to be brought before the court by issuance of a citation directed to the consumer to appear and show cause why the consumer should not be returned to the facility. The judge shall, if clear and convincing evidence is presented by testimony under oath that the consumer should be returned to the facility, enter an order returning the consumer. If there is a lack of clear and convincing evidence showing the necessity of such return, the consumer shall immediately be released. Law enforcement officers are authorized to take into custody, detain and transport a consumer pursuant to a citation or an order of the judge of the district court.

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

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

Passed the Senate the 12th day of March, 2025.

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Presiding Officer of the Senate

Passed the House of Representatives the 1st day of May, 2025.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. M.  
By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. M.

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Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. M.  
By: \_\_\_\_\_