

Competency Evaluations

A person who is not competent to stand trial should not be convicted of a crime. In order to ensure that the criminal proceeding is fair, a court may order a mental health assessment or a competency evaluation be conducted. The request for an evaluation is arranged through the defense counsel and competency can be raised during any stage of legal proceedings by a judge, attorney, prison staff, etc. The trial process is put on hold while the competency evaluation is conducted.




PHASE: Preliminary Procedures & Adjudication

Purpose of the Competency Evaluation/Assessment

To measure the defendant's abilities to comprehend and participate in the judicial process, which include but are not limited to the defendant's ability to:

- Understand and process information.
- Communicate sufficiently with defense counsel to assist in the defense.
- Make informed decisions.
- Understand the meaning of the charges and the potential consequences and repercussions of the outcomes.

Issues of Competency and Potential Pathways

ISSUE	POSSIBLE OUTCOMES
 Not Competent	<ul style="list-style-type: none"> • Potential to have charges dismissed/withdrawn • Supervised release • Civil commitment – Mental Health Procedures Act • Could be a state hospital commitment (following request by defense counsel)
 Competent	<ul style="list-style-type: none"> • Charges continue and case goes to trial • Defense counsel could negotiate a deal • If convicted, advocacy through counsel • Advocate for what state programs and waivers can do for him/her • Could result in a lesser sentence • Mental health treatment could be used in lieu of punishment
 Competency Restoration Program	<ul style="list-style-type: none"> • If an individual is deemed Incompetent to Stand Trial (IST), they will either be found IST and restorable or IST and not restorable. • For those deemed restorable, some type of Competency Restoration program will be ordered.



Points of Intervention:

Though only the prosecutor, defense counsel, or court can bring forward a request to complete a Competency Evaluation/Assessment, a supporter can offer assistance to the defense counsel in the petition to evaluate competency by helping provide:

- Relevant medical records
- Psychosocial history
- Police and law enforcement reports
- Statements made by the defendant
- Transcripts of hearings



For more information about competency evaluations and other justice system procedures, visit the [ASERT Navigating the Justice System page](#).