

Department of Human Services Juvenile Competency Process

Send All Orders and Documents to jvcompcor@utah.gov

Initiating Motion for Competency Evaluation

- Initial petition for inquiry into competency in delinquency proceedings may be initiated by: minor alleged not competent to proceed; any person acting on the minor's behalf; prosecuting attorney; guardian ad litem; or any person having custody or supervision over the minor. *Utah Code Annotated (UCA) 78A-6-1301 (3)*

Juvenile Competency Evaluation Court Order

- Juvenile Competency Evaluation Orders should be a separate order.
- While in court, the Judge may include in the order a request for prosecuting, defense and guardian ad litem attorneys, parents/guardian or others acting on the minor's behalf to submit the following supporting documents to expedite the process: the motion, arrest or incident reports, delinquency history, prior mental health and intellectual disability evaluations and treatment records, education records, or other important documents. These documents shall be submitted to jvcompcor@utah.gov.
- Email all court orders and supporting documentation pertaining to juvenile competency to: jvcompcor@utah.gov.

Assigning Forensic Evaluator and Evaluation Findings

- Competency Evaluation Orders are received by DHS and an evaluator will be assigned by DHS within 48 hours upon receipt of the order and supporting documentation.
- For evaluations, an initial report will be submitted to the court, prosecuting attorney, defense attorney, and guardian ad litem 30 days from receipt of court order by evaluator. Court may grant time extensions for reasonable circumstances.
- Pursuant to *UCA 78A-6-1302(9)*, the evaluator's written report shall inform the Court of the evaluator's opinion concerning competency and when found not competent, the likelihood that the minor will attain competency within a year.

Attainment Process

- Attainment orders are made when the Court finds the minor is not competent to proceed and the minor is likely to attain competency within 1 year, reviews every 90 days.
- According to Utah Code 78A-6-1303(4)(b), during the attainment period the minor will remain in the least restrictive appropriate setting. Court cannot order DCFS, DHS or DSPD custody solely based on incompetency.
- Clerks: Email all Attainment Orders pertaining to juvenile competency to jvcompcor@utah.gov.
- A Juvenile Competency Attainment Provider will be assigned and attainment plan will be developed and attainment services provided. Within 30 days an attainment plan will be developed and will be submitted to the Court, prosecutor, defense attorney, and guardian ad litem at least 3 days prior to competency disposition hearing.
- The Court is required to review the status of the minor's attainment of competency every 90 days. The competency coordinator will typically not appear in person, but will make sure that progress reports are submitted 3 days prior to the review hearing to the Court, prosecutor, defense attorney, and guardian ad litem and can be available by phone if necessary.
- At the 6 month review, if the minor has not attained competency, a report to the Court will be submitted addressing whether or not the minor is showing reasonable progress towards attaining competency. If reasonable progress is being made, the Court may order an additional 6 months of attainment.
- If at any time it becomes evident there is not a substantial probability the minor will attain competency prior to the one year review, a staffing with appropriate agencies may be held to determine what is in the best interest of the minor and society.
- If the minor has not attained competency at the one year review, the Court is obligated to terminate competency proceedings and dismiss the charges without prejudice.

DHS Improvement Strategies:

- For ongoing collaboration and communication and in order to problem solve collateral issues that may arise with some of the minors outside of the competency statute, DHS will send the two juvenile competency coordinators, as well as Assistant Attorney General representatives to attend the District Bench meetings on a regular basis as requested.
 - DHS convenes an internal DHS High level bi-weekly staffing on all juvenile competency orders, beginning in July.
 - The competency staffing will be attended by DHS Deputy Director, Division Directors/clinical staff (DSAMH & DSPD), juvenile competency coordinators (DSAMH/DSPD), and Assistant Attorney Generals.
- Data tracking and technology plans for the future, Forensic Evaluation System (FES).