

## Juvenile Competency Evaluation Procedure for Forensic Evaluators

### Juvenile Competency Evaluation Court Order

- Upon receipt of the Juvenile Competency Court Order and collateral information from Department of Human Services, the evaluator has 30 days to complete report and submit it to the Court. If evaluator needs additional time they shall request additional time from the Court and the Court may grant time extensions for reasonable circumstances.

### Juvenile Competency Evaluation Criteria

- Pursuant to *UCA 78A-6-1302(7)*, the evaluator shall consider the impact of a mental disorder, intellectual disability, or related condition on a minor's present capacity to: comprehend and appreciate the charges or allegations; disclose to counsel pertinent facts, events, or states of mind; comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the minor; engage in reasoned legal choice of legal strategies and options; understand the adversarial nature of the proceedings; manifest appropriate courtroom behaviors; and testify relevantly, if applicable.
- Pursuant to *UCA 78A-6-1302(8)*, evaluator's report shall identify the specific matters referred for evaluation; describe the procedures, techniques, and tests used in the evaluation and the purpose(s) for each; state clinical observations, findings, and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the evaluator could not give an opinion; state likelihood that minor will attain competency and the amount of time estimated to achieve it; and identify sources of information used by evaluator and present the basis for evaluator's clinical findings and opinions.

### Evaluator's Finding on Competency: Competent or Not Competent

- Pursuant to *UCA 78A-6-1302(9)*, the evaluator's written report shall inform the Court of the evaluator's opinion concerning competency and the likelihood that the minor will attain competency within a year.
- Kruh & Grisso noted, "the examiner must assist the court in determining whether to pursue remediation efforts... available evidence suggest that judges rely heavily on the opinions of juvenile evaluators to reach their ultimate competency to stand trial determinations... Evaluators can simply offer their functional, causal, and contextual opinions as guidance, stop there, and allow the court to conduct the synthesis required for the ultimate determination."<sup>1</sup>

### Competency Attainment Formulation: If Found Not Competent, Potential of Attaining Competency

- Grisso noted, "When a youth manifests serious deficits in competency abilities, the evaluator seeks to apply data from the "Data Collection" phase to arrive at opinions that will assist the court in deciding matters pertaining to potential remediation of the youth's deficits. This part of the task also calls for an explanation of how treatment is expected to have a positive effect on the youth's competency abilities within any of the three general areas of competency (Understanding, Appreciation, Reasoning/Decision making) in which deficits were apparent."<sup>2</sup>
- Kruh & Grisso noted, "The remedial analysis requires consideration of developmental and mental health history, current mental status, information regarding past responses to pharmacological and psychotherapeutic efforts to reduce relevant symptoms, and the past responses to education interventions (Grisso, 2005)."<sup>1</sup>
- Kruh & Grisso, also noted, "Because of limits placed on competence remediation efforts by *Jackson v. Indiana* (1972) and consequent statutory guidelines, examiners must consider how long successful intervention is expected to take. Given the current status of the empirical literature, gauging the length of time needed for successful remediation can be difficult, and rough estimates are often necessary. Legally mandated time intervals for remediation (e.g., 90 days) can provide a useful frame for the estimate."<sup>1</sup>

### Completion of Evaluation and Report

- If an evaluation is assigned by the Division of Substance Abuse & Mental Health (DSAMH) or the Division of Services for People with Disabilities (DSPD), evaluator should submit report to the Court, prosecution, defense, Attorney General, and guardian ad litem, if applicable.
- If an evaluation is assigned by DSAMH, a copy of the report and invoice should be sent to Danette Faretta-Brady at the Utah State Hospital and Amanda Alkema at DSAMH for payment.
- If an evaluation is assigned by DSPD, a copy of the report should be sent to Joe Brusatto and Steve Wrigley at DSPD.

1. Kruh, I., & Grisso, T. (2009). Evaluation of Juveniles' Competence to Stand Trial (pp. 186-195). Oxford University Press.

2. Grisso, T. (2005). Evaluating Juveniles Adjudicative Competence: A Guide for Clinical Practice (pp. 103-105). Sarasota, FL: Professional Resource Press.