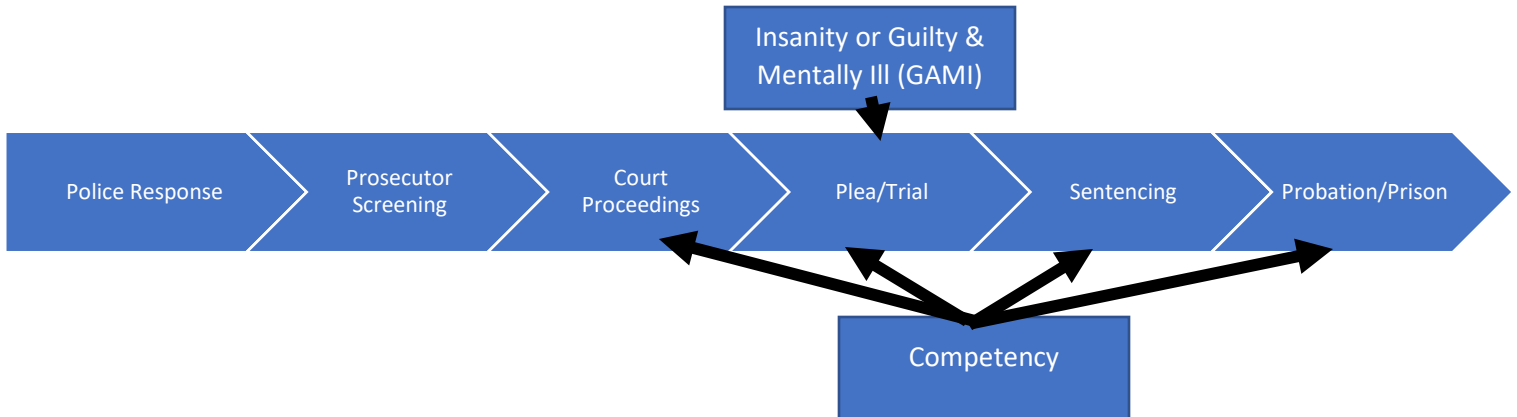




Crime, Competency, & Civil Commitment

Criminal justice process overview



What does “incompetent” mean in a criminal case?



For adults: A defendant lacks: (a) a rational and factual understanding of the criminal proceedings and the punishment; or (b) the ability to consult with legal counsel with a reasonable degree of rational understanding to assist the defense. (§77-15-2)

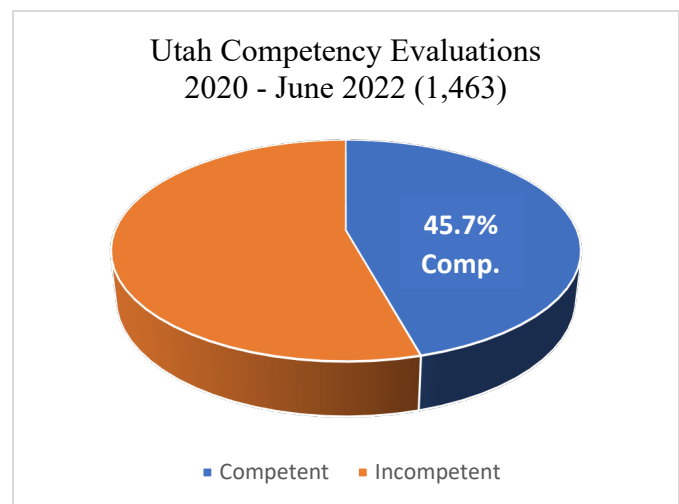
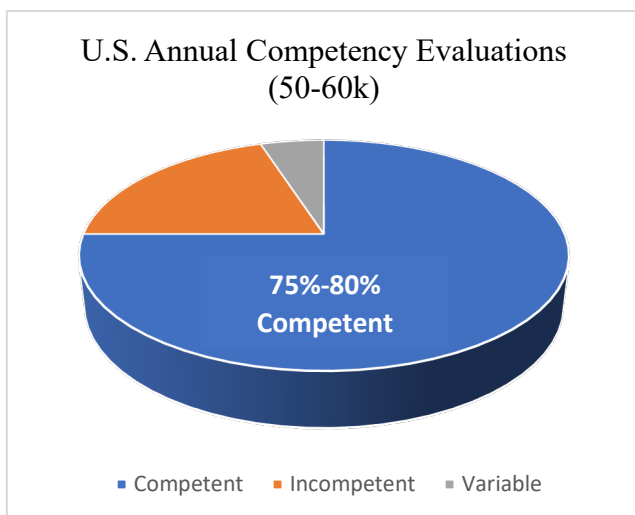
For juveniles: Due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to: (a) understand the nature of the proceedings or the potential disposition for the offense; or (b) consult with counsel and participate with a reasonable degree of rational understanding.



How does a court decide a defendant is incompetent? (§77-15-5)

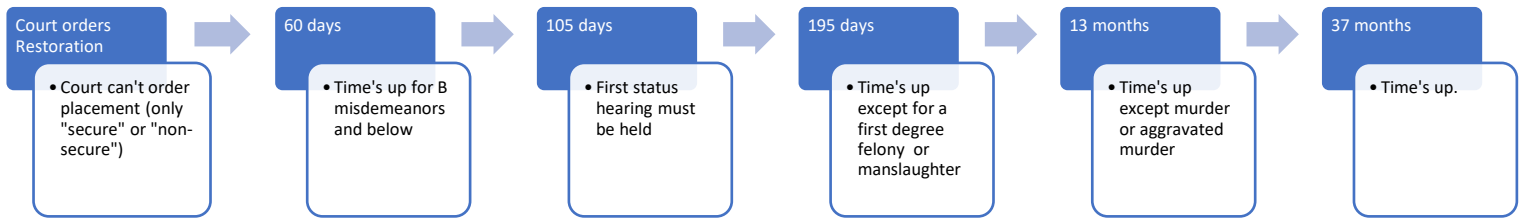
1. Anyone can ask the district court to investigate a defendant’s competency.
2. All criminal proceedings are stayed (paused) after competency is raised.
3. If the court finds there’s a bona fide doubt about the defendant’s competency, the judge must order an evaluation by 1 or 2 forensic evaluators (the defendant stays in the same custody status unless otherwise ordered).
4. The court schedules a hearing after receiving the report(s).
5. The legal presumption is a defendant is competent unless the court finds the defendant incompetent by the preponderance of the evidence.

How often are evaluators finding defendants incompetent in Utah? (Spoiler: too often)



What happens after a defendant is found incompetent?

If the defendant is deemed “restorable,” a timer starts.



What happens if the defendant is non-restorable, or the restoration time runs out?

The defendant is either released or “civilly committed”

