



Office of the Governor

MICHELLE LUJAN GRISHAM

Determination of Competency of Defendant in Criminal Case

**SENATE BILL 16
SPONSORED BY SEN. GERALD ORTIZ Y PIÑO
HOUSE BILL 233
SPONSORED BY REP. TARA L. LUJAN**

WHY WE NEED CHANGE

Like the rest of the nation, New Mexico is faced with the growing twin crises of substance use disorder and crime. The often-used, short-term solutions of incarceration and emergency room visits are not effective and do not ultimately provide the compassionate response needed to assist individuals in crisis. In addition, these individuals can pose a risk to public safety, and crowd up the court systems.

Under current laws, individuals found not competent largely have charges against them dismissed and are simply given information about services. This approach is not effective, especially for those in crisis who need additional assistance in accepting treatment.

There is a better way. Integrating public health interventions into public safety is crucial to providing the best care for individuals in the community struggling with behavioral health issues.

The public health approach proposed by Senate Bill 16 improves the justice system by implementing trauma-informed methods into public safety practices.

HOW IT WORKS

The bill provides for a competency evaluation to be ordered, or if both parties agree the defendant can be ordered to a treatment program. It creates competency restoration programs and requires that the state pays for mental health examinations of defendants.

The bill provides the ability for the judge, prosecutor, or defense attorney to recommend a defendant charged with a misdemeanor or non-violent felony for a mental health evaluation. A hearing will be held within 30 days after completion of the assessment of competency and dangerousness. Individuals deemed competent to stand trial will follow the standard proceedings within the criminal justice system. Those found incompetent will be provided the least-restrictive means for mental health treatment to restore them to competency, which may include in-patient, residential drug, alcohol, and/or mental health treatment. Diversion treatment programs will last no more than six months for misdemeanors or 18 months for nonviolent felonies.

Following the successful completion of the competency restoration program, charges for misdemeanors and non-violent felonies are dismissed. Should someone be unable to finish the treatment program, they may be referred for a civil commitment process or assisted outpatient treatment.