

Oversight Council for Improving Criminal Justice Responses for Persons with Mental Illness

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State Court Administrator

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Community Justice and Mental Illness Early Intervention: Task Force Primer



Task Force Goals

- To improve public safety and the treatment of people with mental illness, who come in contact with the criminal justice system.
- To more effectively identify mental illness in people coming into contact with the criminal justice system, while holding offenders and government more accountable.
- To better allocate limited local resources in order to improve early intervention services and preserve limited jail and prison resources for violent, chronic, and career criminals.

Task Force Membership

Chief Justice David Gilbertson (Chair)

South Dakota Supreme Court, Unified
Judicial System

Jim Seward (Vice-chair)

General Counsel, Office of the Governor

Denny Kaemingk

Secretary, Department of Corrections

Lynne Valenti

Secretary, Department of Social Services

Dr. Clay Pavlis

Psychiatrist and Medical Director, Midwest
Wellness Institute

Hon. Craig Pfeifle

Presiding Judge of the Seventh Judicial
Circuit

Kevin Thom

Sheriff, Pennington County

Cindy Heiberger

County Commissioner, Minnehaha County

Hon. Larry Long

Presiding Judge of the Second Judicial Circuit

Aaron McGowan

State's Attorney, Minnehaha County

Michael Gibbs

CEO, Rapid City Regional Hospital

Mike Miller

Attorney, Minnehaha Public Defender's Office

Steve Emery

Secretary, Department of Tribal Relations

Wendy Giebink

Executive Director, NAMI South Dakota

Sen. Alan Solano

Senator, District 32

Rep. Timothy Johns

Representative, District 31

Greg Sattizahn

State Court Administrator, Unified Judicial
System

Scott Peters

Attorney; Chair, Minnehaha-Lincoln Cnty Bd
of Mental Illness

Tim Neyhart

Executive Director, South Dakota Advocacy
Services

Sarah Petersen

Welfare Director, Codington County

Belinda Nelson

Director, Community Counseling Services
(Huron)

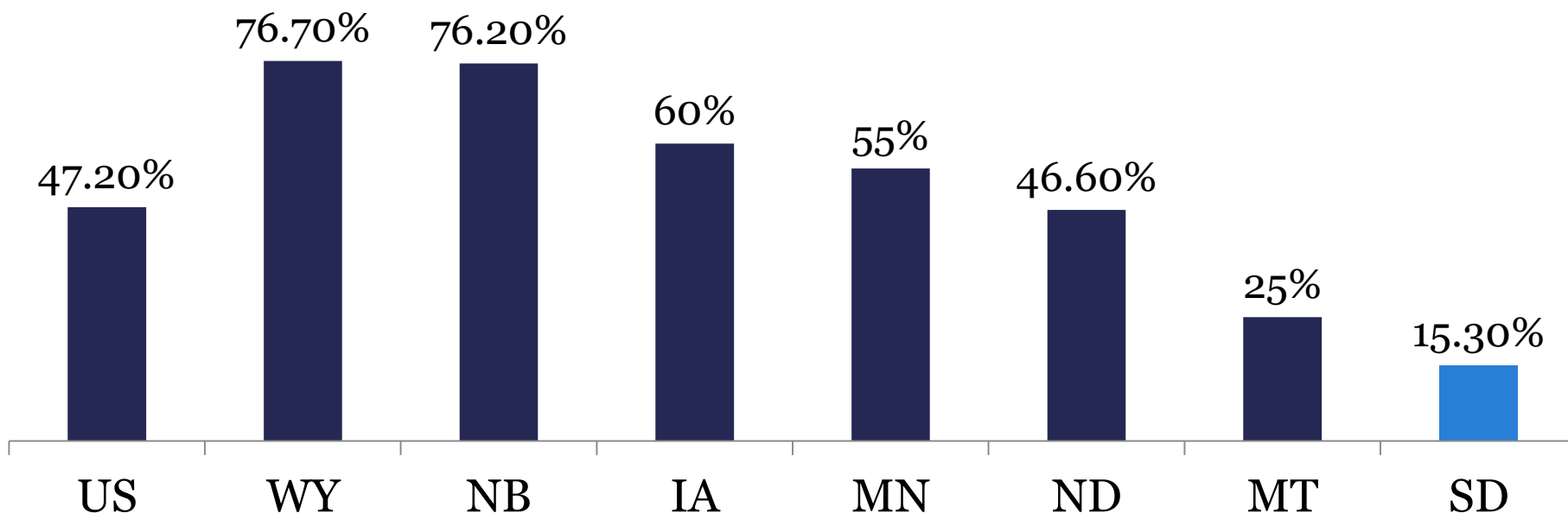
Mike Milstead

Sheriff, Minnehaha

Data Discoveries

South Dakota only meets 15.3 percent of its need for psychiatrists.

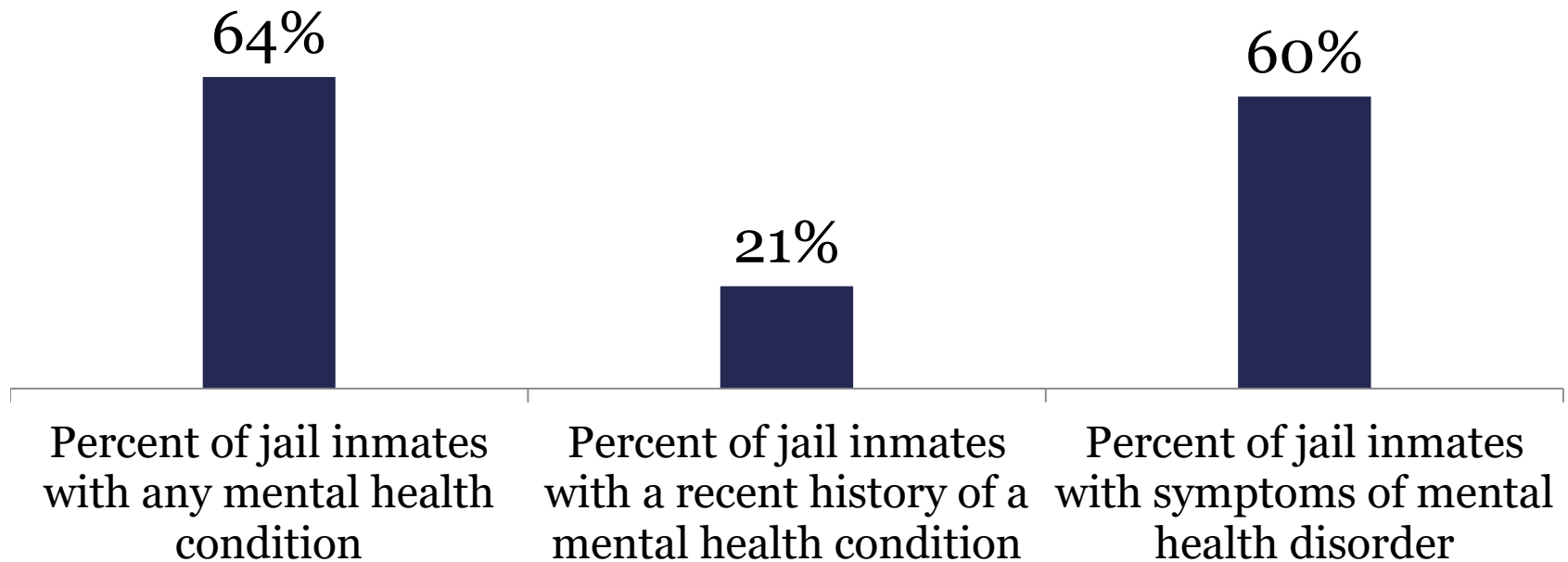
The shortage is based on a 2016 psychiatrist-to-population ratio of 1:30,000.



Source: US Department of Health and Human Services, Health Resources and Services Administration Data Warehouse, access 3/14/16

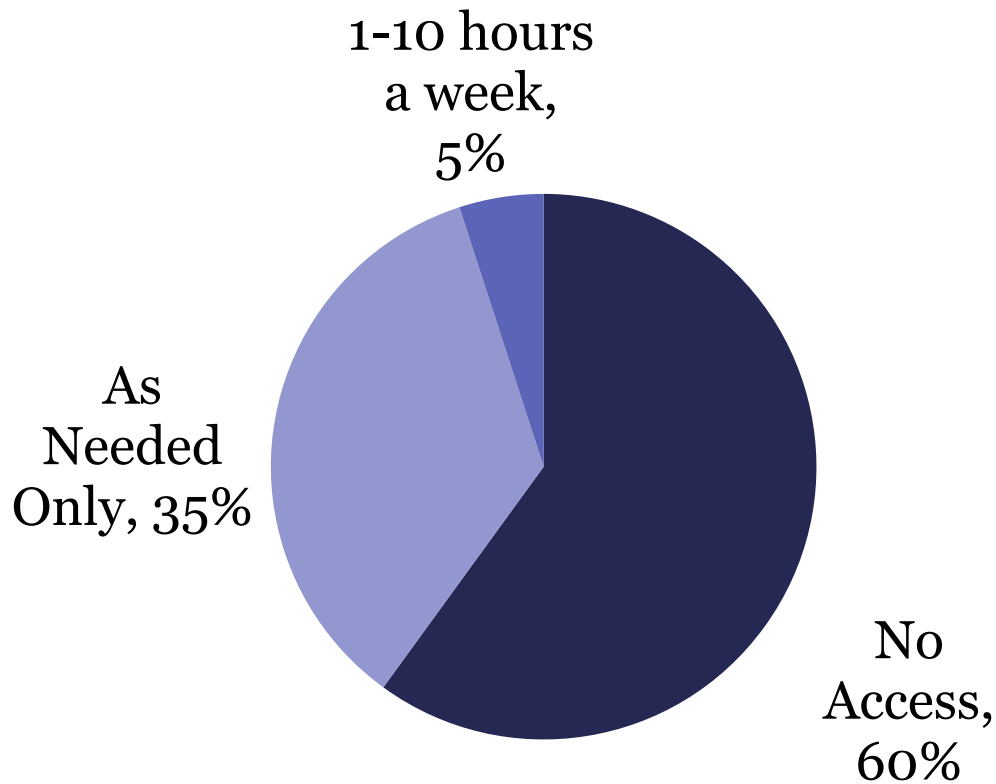
Data Discoveries

The prevalence of jail inmates with mental health conditions exceeds that of the general population.



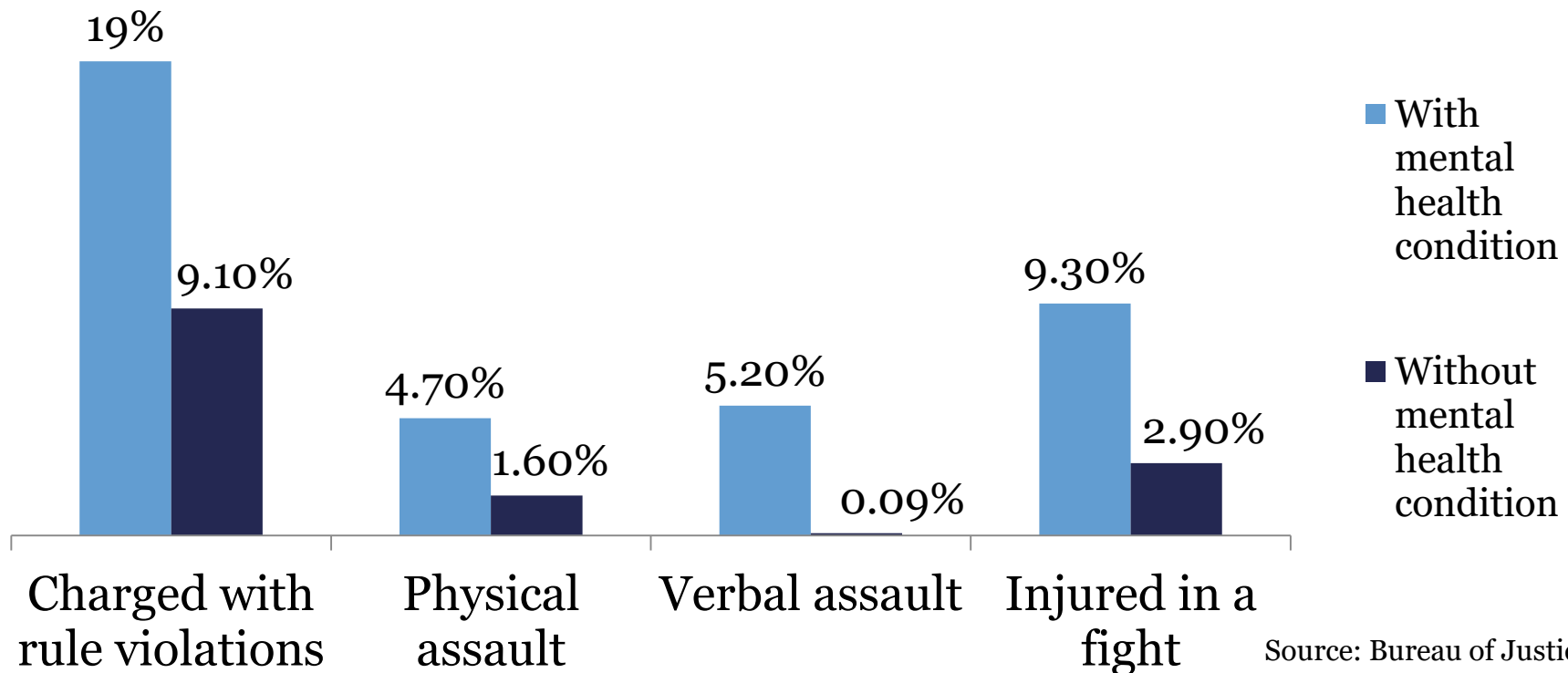
Data Discoveries

60 percent of South Dakota jails have no access to a staff or contracted psychiatrist.



Data Discoveries

Jail inmates with mental health conditions are far more likely to be charged with rule violations, involved in assaults, and injured in a fight.



Source: Bureau of Justice Statistics, 2006

Key Findings

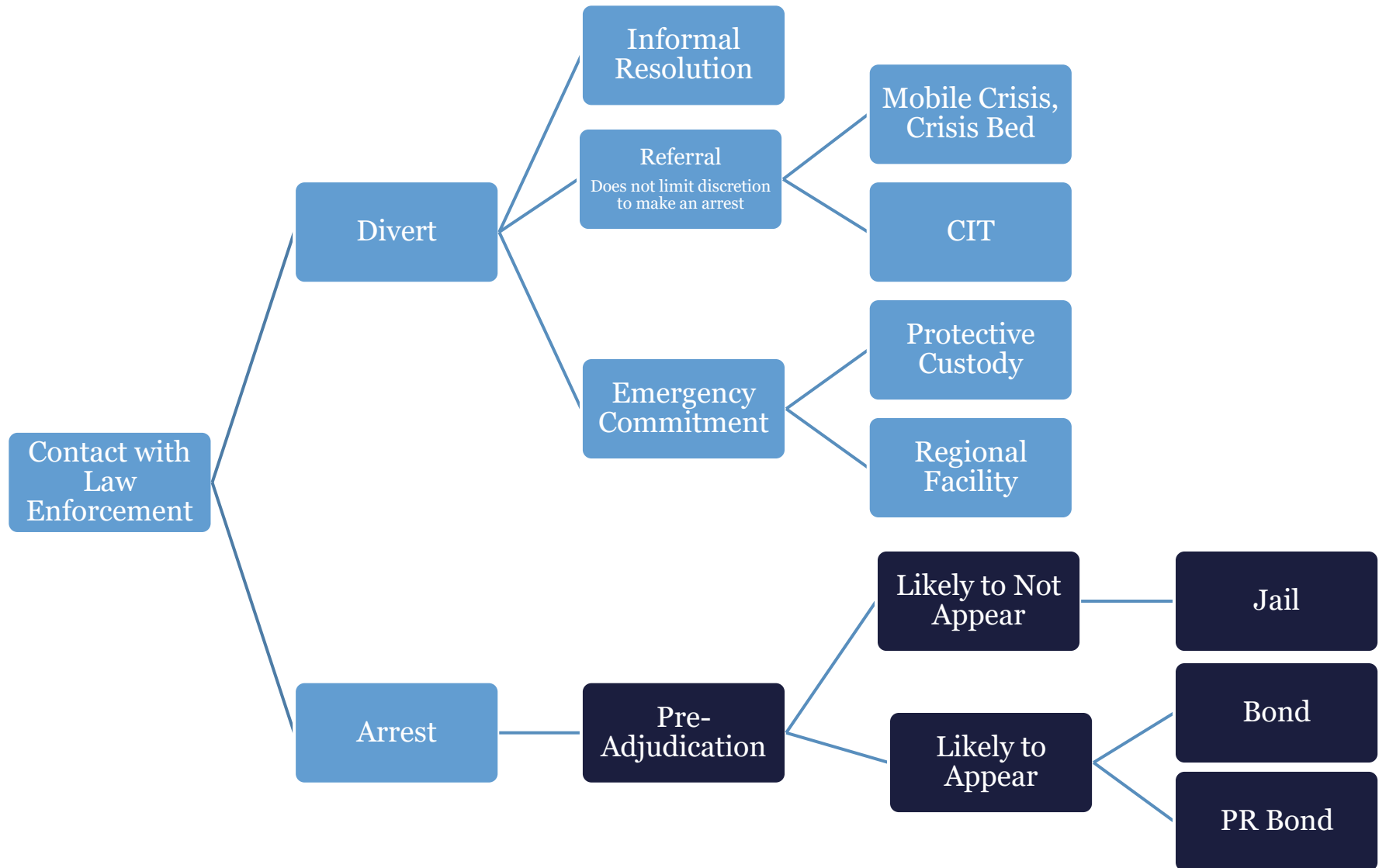
- Options to divert individuals from the criminal justice system are not available in all areas of the state.
- The criminal justice system lacks adequate procedures to identify mental illness early.
- People with indicators of mental illness are more likely to be jailed pretrial and to stay longer in jail.
- Court orders regarding competency evaluations tripled in a 3-year period, while multi-purpose evaluations and wait times for evaluations drove higher costs.

Progression through the Justice System

Pre-HB 1183



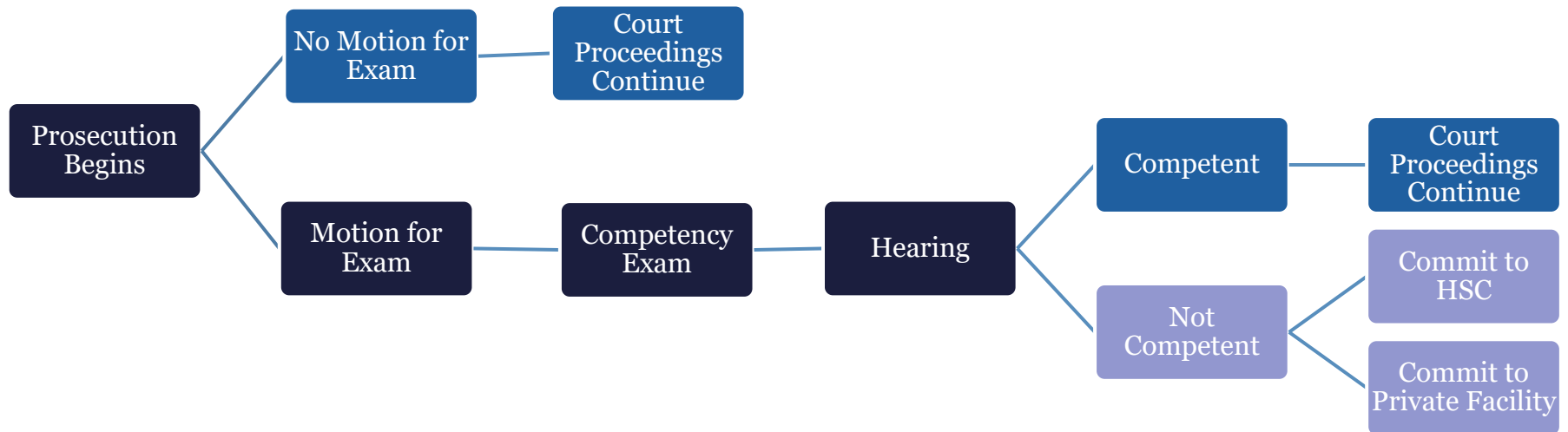
Contact with Law Enforcement



Options for Law Enforcement

- Law Enforcement can either:
 - Arrest an individual; or
 - Divert from the criminal justice system.
 - Informal Resolution;
 - Referral to mobile crisis team or crisis intervention team (if available);
 - Emergency mental illness commitment.

Contact with Judicial System



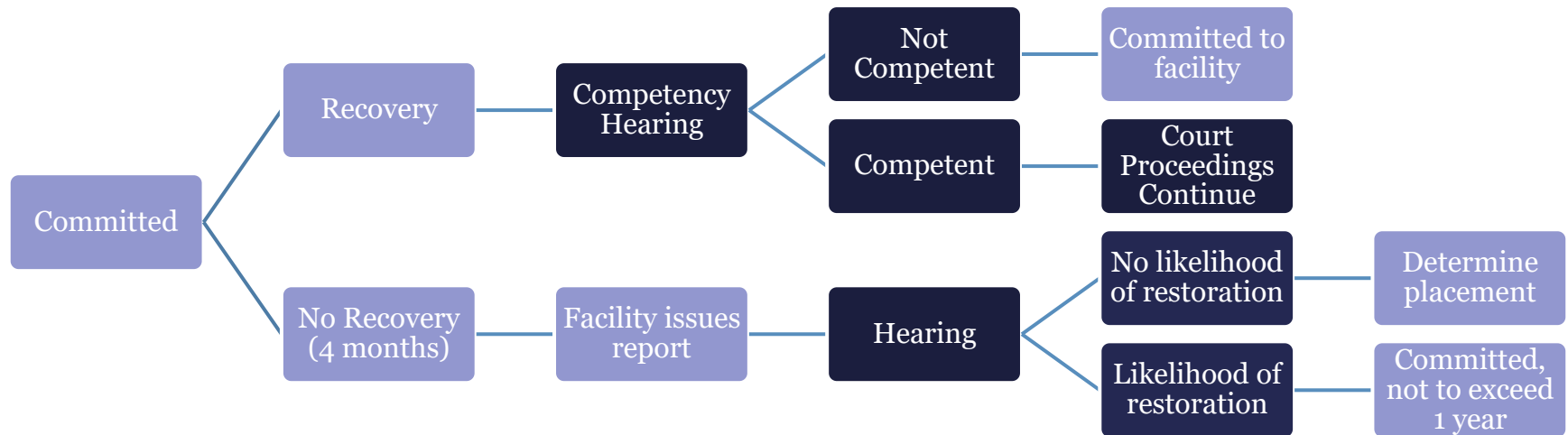
Options for the Court

- Court or magistrate may impose conditions of release on the individual in order to assure appearance.
- Among other factors, the court may consider the individual's mental condition.

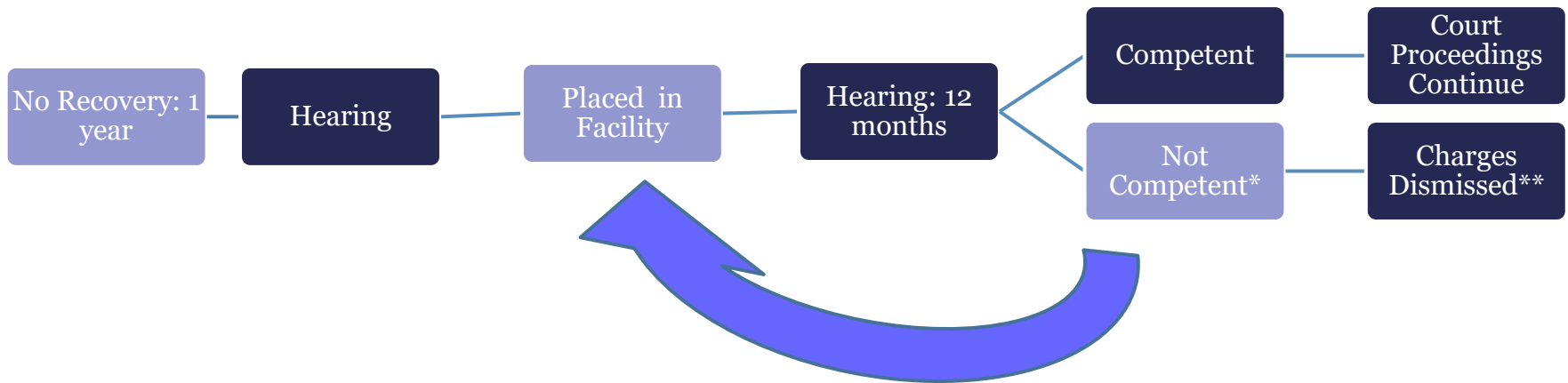
First Appearance Options

- Detain; or
- Release pending trial
 - Defendant must be ordered release pending trial on personal recognizance or bond unless:
 - Such a release will not reasonably assure appearance of defendant; or
 - Defendant may pose danger to any other person or community.

Individual Deemed Not Competent



Individual Deemed Not Competent, No Recovery



*The individual remains in custody until both the court order and the expiration of the longest time the defendant could have been served expires.

**Prosecutor may file a petition for involuntary commitment upon dismissal of charges if there is probable cause to believe defendant is a danger to himself or others.

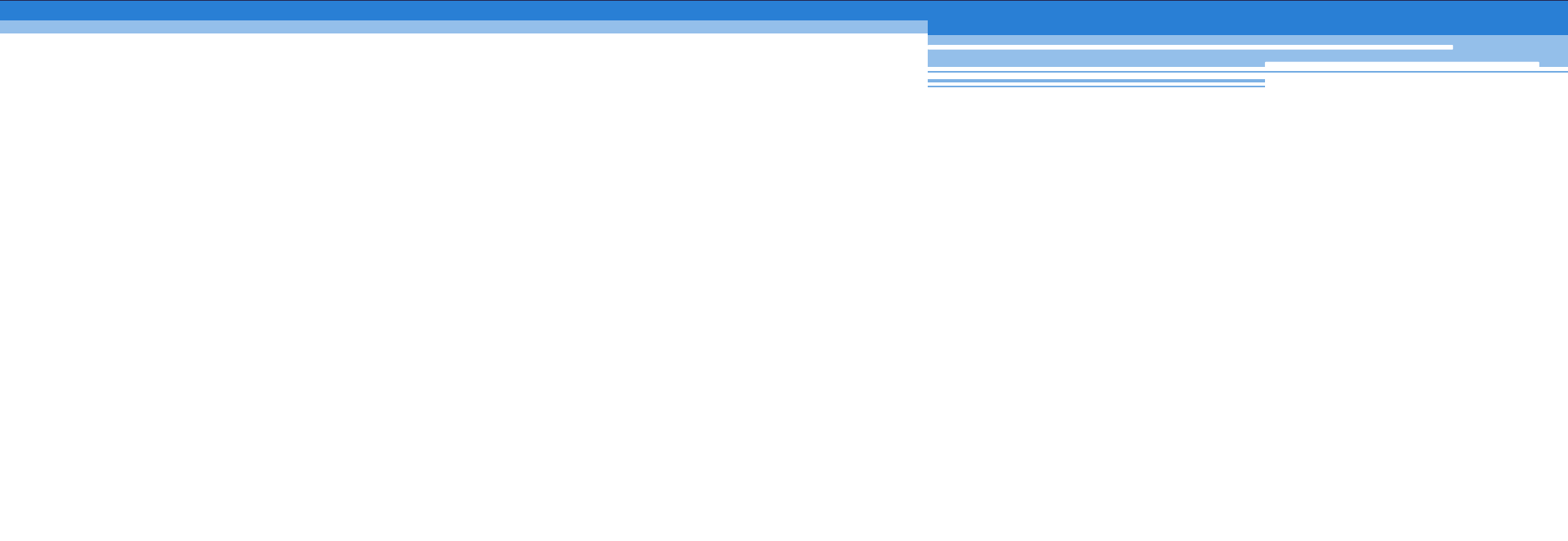
Competency

- While mentally incompetent, a person cannot be tried, sentenced, or punished for any public offense.
- The prosecution, defense, or court may raise a motion for a hearing to determine competency, and may be brought at any time after commencement of prosecution and prior to sentencing.

House Bill 1183: Legislation Primer




Strengthens opportunities to divert people from the criminal justice system into mental health treatment.



Opportunities to Divert

- Encourages state's attorneys to use deferred prosecution for defendants with mental illness by providing training on mental illness and available services.
- Revises conditions of bond to allow the court to add as a condition the requirement that a defendant complete a mental health assessment and follow treatment recommendations.
- Allows courts to establish multi-disciplinary teams to help plan and manage cases for people with mental illness.


Expedites the completion of competency exams ensuring speedier court processing and shorter jail stays.



Speedier Court Processing and Shorter Jail Stays

- Reallocate funds used at the Human Services Center for the costs associated with forensic evaluations to establish a contract with the SD Association of County Commissioners to create a fund for the purpose of assisting counties with the cost of court-ordered competency evaluations
- Sets a 21-day timeframe for completion of competency evaluations and expands the types of professionals who can perform these examinations.


Improves access to treatment of those with mental illness in criminal justice system through training and studying treatment options.



Access to Treatment

- Requires training on mental illness for court-appointed criminal defense attorneys, officers in jails and state prisons, judges, and court services officers to encourage appropriate response and available services.
- Establishes a group to recommend ways to improve communication between jails and mental health providers.

Provides tools to law enforcement and communities to address mental health crises early and prevent jail admissions.



Tools for Law Enforcement

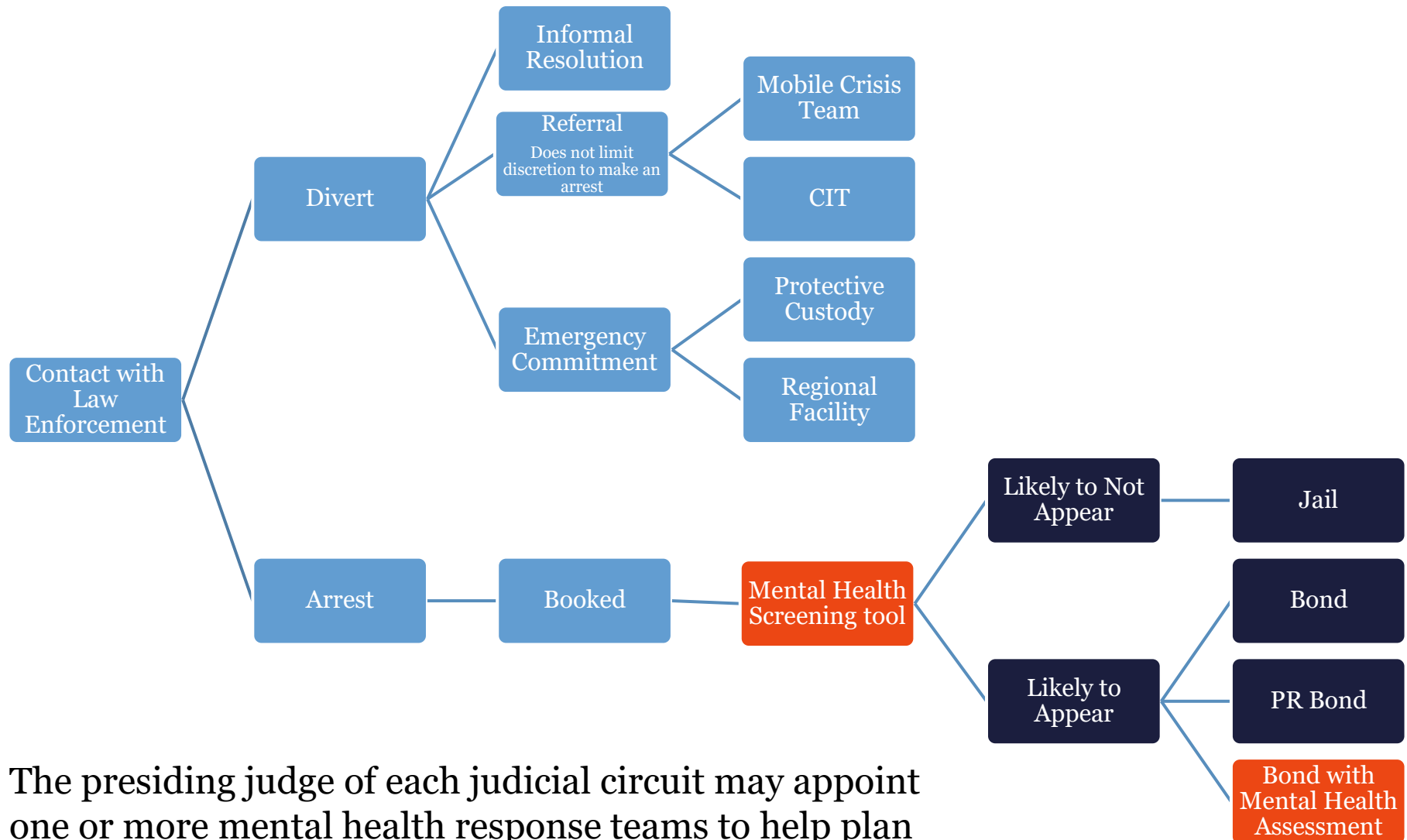
- Sets up a one-time grant program to encourage local governments to establish or expand crisis response services as a way to divert individuals with mental health concerns away from jail.
- Expands training resources for law enforcement and jails on mental illness and crisis intervention.

Progression through the Justice System

Post-HB 1183



Contact with Law Enforcement



The presiding judge of each judicial circuit may appoint one or more mental health response teams to help plan and manage cases for people with mental illness.

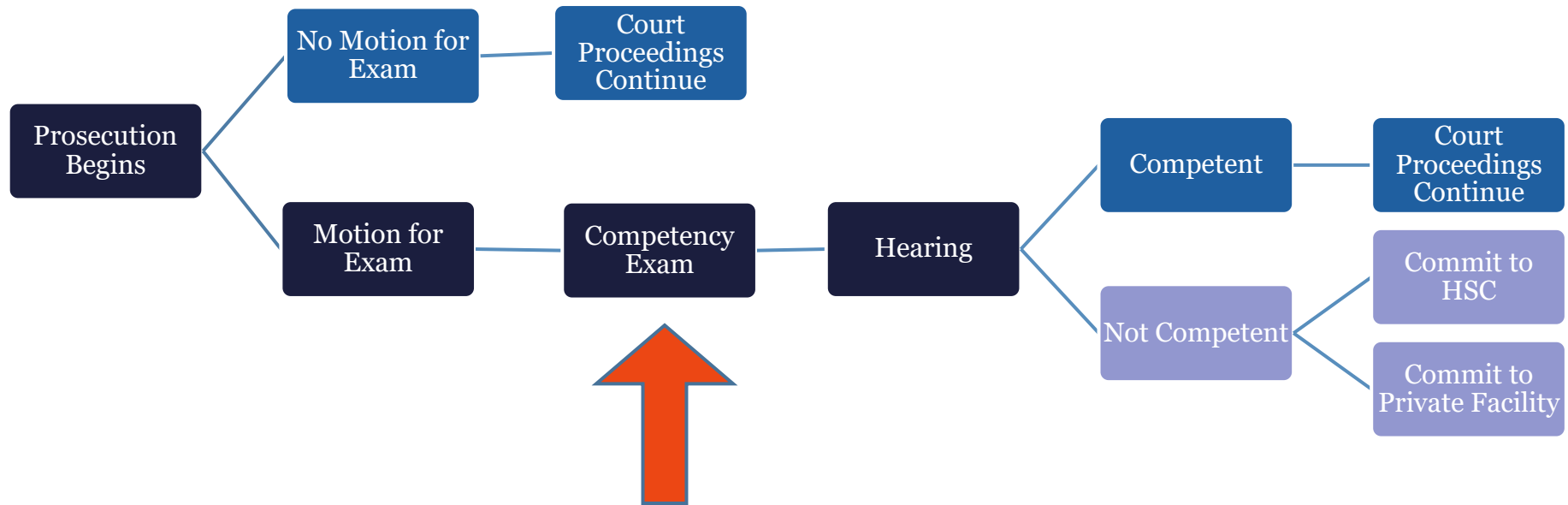
Mental Health Screening Tool

- HB 1183 calls for the South Dakota Sheriff's Association to develop a jail mental health screening pilot program.
- The tool is utilized during the jail intake process.
- The results of the screening tool will be provided to the circuit committing magistrate or court.

Mental Health Assessment

- The judge may require a defendant to complete a mental health assessment and follow any treatment recommendations as a condition of release.

Contact with Judicial System



Shall be completed
within 21 days of
the court order

Competency Evaluations

- Competency evaluation orders must be completed within twenty-one days of the court order. The court may grant a continuance for good cause.

Competency Evaluators

- The following professionals may conduct the evaluation:
 - A licensed or certified psychiatrist;
 - A licensed clinical psychologist;
 - *A certified social worker with competency evaluation training;
 - *Certified nurse practitioner or clinical nurse specialist with current psychiatric certification and competency evaluation training;
 - *Licensed professional counselor-mental health with training

*Added as a result of 1183

Oversight Council

Improving Criminal Justice
Responses for Persons with
Mental Illness

Duties of the Oversight Council

Study

- Study and make recommendations to improve the recruitment and retention of mental health professionals
- Study and make recommendations to expand access to mental health services for criminal justice populations

Duties of the Oversight Council

Review

- Review task force recommendations, track implementation and evaluate compliance
- Review data and reporting required by this Act
- Review compliance with the training required by this Act
- Review the recommendations of the crisis intervention team training review team
- Review the crisis response grants distributed
- Review DCI's development of training on mental illness
- Review the payments to counties for mental competency examinations and reports

Duties of the Oversight Council

Establish

- Establish a work group to make recommendations to improve information sharing among jails and mental health providers and improve coordination among jails and mental health providers to refer persons released from jail to mental health services
- Establish a statewide crisis intervention training review team to analyze and make recommendations on the ongoing need for a crisis intervention training coordinator
- Establish a work group to make recommendations to the council to create a process for the completion of a mental health assessment following a jail mental health screening

Duties of the Oversight Council

Evaluate

- Evaluate the need for and feasibility of forensic assertive community treatment teams
- Evaluate the need for and feasibility and cost effectiveness of telehealth options for jail mental health assessments, consultations for law enforcement officers who encounter persons in crisis, crisis response during law enforcement encounters with persons in crisis, mental health services for persons on probation, and mental health services for persons in jail
- Evaluate the need for and feasibility of a statewide crisis call center or regional call centers for persons in crisis

Duties of the Oversight Council

Actions

- Make recommendations regarding pilot programs for needed and feasible telehealth options to provide mental health services to persons with mental illness in the criminal justice system
- Prepare and submit an annual summary report of the performance and outcome measures that are part of this Act. The report shall include recommendations for improvements and a summary of savings
- Calculate costs averted by the provisions in this Act
- Monitor the competency evaluation funding program
- Track progress and make recommendations to improve the implementation of mental health screenings in jails

Questions?

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