



Department of Mental Health **Cumulative Competency Evaluations**

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Contact Information

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Table of Contents

Department of Mental Health Cumulative Competency Evaluations	1
Contact Information	2
Executive Summary	4
Reference Legislation	5
Cumulative Competency Evaluations	6
Current Waitlist Data	6
Multiple Evaluations	6



Executive Summary

[Act 28 \(2023\)](#) made fundamental changes to how competency and sanity evaluations are done in Vermont. These changes had an immediate positive impact on the waitlist for evaluations. However, given the changes just went into effect on July 1st of this year, the Department of Mental Health (DMH) is still collecting data and is not in a position to make any findings or recommendations at this time.¹

¹ As the Department of Disabilities, Aging, and Independent Living is not involved in competency or sanity evaluations, DMH alone is submitting this report.



Reference Legislation

From [Act 28 \(2023\)](#) :

Sec. 9. REPORT ON CUMULATIVE COMPETENCY EVALUATIONS

On or before December 15, 2023, the Department of Mental Health, in consultation with the Department of Disabilities, Aging, and Independent Living shall report on cumulative competency evaluations to the House Committees on Judiciary and Health Care and the Senate Committees on Judiciary and Health and Welfare. The report shall include recommendations on how to address competency evaluations of persons who have already been determined incompetent to stand trial in another matter, including whether previous evaluations may be used or relied upon for subsequent evaluations.



Cumulative Competency Evaluations

Current Waitlist Data

As of the week of [December 8th, there was no waitlist for inpatient or outpatient evaluations]. Evaluations are scheduled as soon as received by the Department of Mental Health (DMH) and are generally completed within 60 days.

Multiple Evaluations

From DMH's perspective, there are two distinct circumstances that can result in requests for multiple evaluations. The first is multiple evaluations for the same person for the same crime. DMH expressed concern with this process last session, and its detrimental impact on the waitlist. Act 28 (2023) implemented changes that have had a positive impact on this issue. Of the 5 requests we have received (far fewer than usual), DMH has successfully demonstrated that the burden was not met in 3 of those cases. It's important to clarify that this does not necessarily mean the person did not get an additional evaluation, it simply means DMH did not arrange or pay for it. The prosecution or defense could have made the decision to get their own evaluation.

The second type is someone who is alleged to commit multiple offenses and gets orders for evaluations for each of those charges. Often DMH gets multiple charges sent concurrently, and the evaluator submits one report for all the listed charges. Should someone commit additional crimes before their evaluation has occurred, DMH adds those charges to the evaluation request to reduce the number of evaluations and the overall wait time. Should someone previously have been found incompetent but then commit a new crime, DMH schedules a new evaluation. DMH does not have a position on those cases.