

**MADFREEDOM**

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House Judiciary Committee  
Hearing on S.3

April 2, 2021

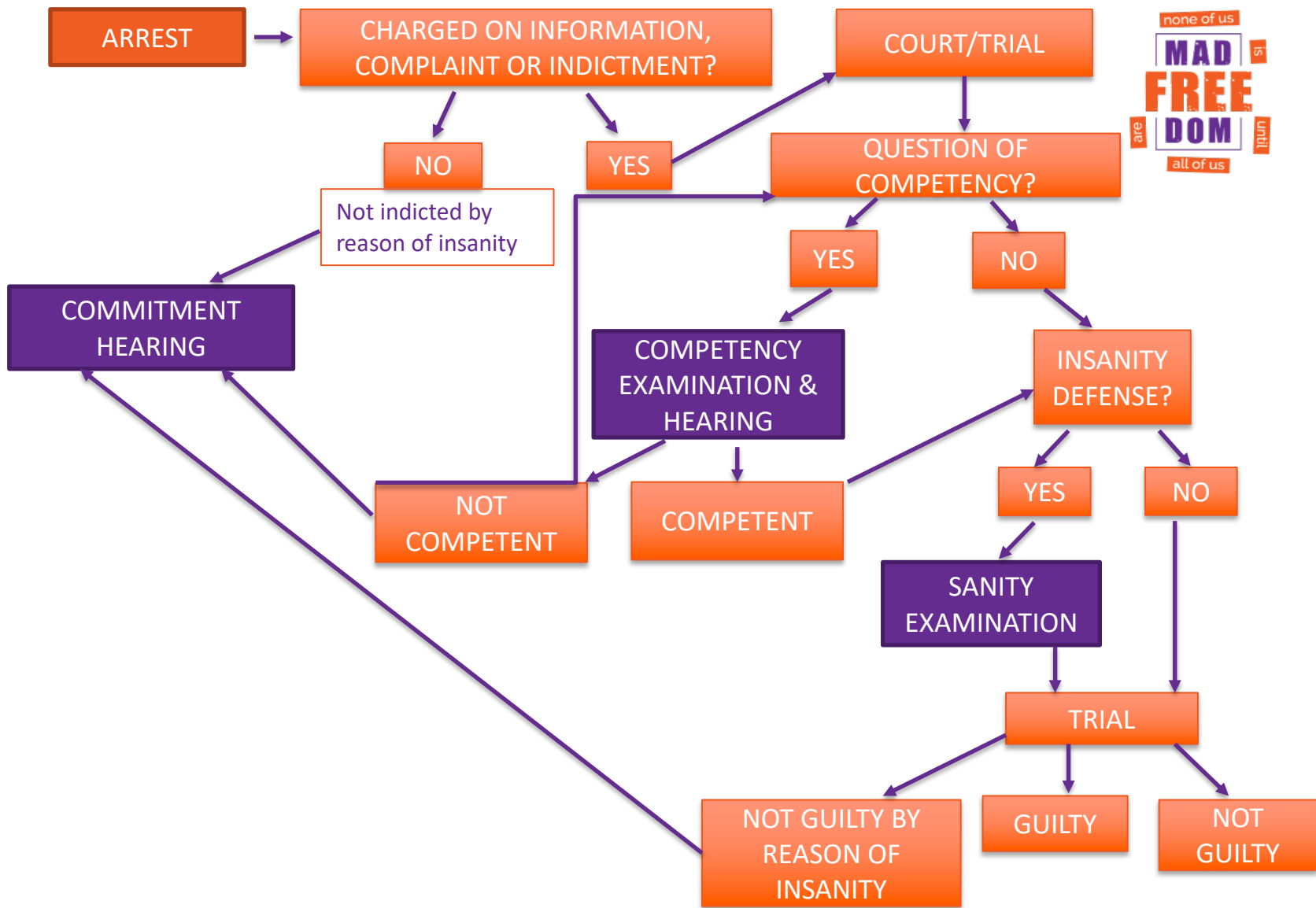
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# COMPETENCY TO STAND TRIAL AND INSANITY DEFENSE – FLOW CHART



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# Competency Determination



Some of the issues relevant to a criminal defendant's competency are:

- whether the "defendant kn[ows] the charges against defendant and their relative severity"
- whether defendant can "describe the basic functions of a trial . . . distinguish between guilty and not guilty"
- whether defendant knows "the role of defendant's attorney and the prosecutor" and
- whether defendant understands "the concept of plea bargaining and defendant's right to appeal."

Beaudoin, 2008 VT 133, ¶ 13.

# Insanity Determination



## § 4801. Test of insanity in criminal cases

(a) The test when used as a defense in criminal cases shall be as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he or she lacks adequate capacity either to ***appreciate the criminality of his or her conduct*** or ***to conform his or her conduct to the requirements of law***.

(2) The terms "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct. The terms "mental disease or defect" shall include congenital and traumatic mental conditions as well as disease.

(b) The defendant shall have the burden of proof in establishing insanity as an affirmative defense by a preponderance of the evidence.

# Commitment Determination



A court finds that the person is

- A person in need of treatment OR
- A patient in need of further treatment

**"person in need of treatment"** means a person who has a mental illness and, as a result of that mental illness, his or her capacity to exercise self-control, judgment, or discretion in the conduct of his or her affairs and social relations is so lessened that he or she poses a danger of harm to himself, to herself, or to others"

A **patient in need of further treatment**" means:

- (A) a person in need of treatment; or
- (B) a patient who is receiving adequate treatment, and who, if such treatment is discontinued, presents a substantial probability that in the near future his or her condition will deteriorate and he or she will become a person in need of treatment.



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