

Fitness to Stand Trial: Competency Examinations in Vermont and Other States

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The Committee's Charge

- Should Vermont law expand to allow doctoral-level professionals, other than psychiatrists and psychologists trained in forensic psychology, to conduct competency examinations of defendants pursuant to 13 V.S.A. § 4814?
- Recommend any changes it deems advisable to 13 V.S.A. § 4814(d) reflecting which professionals, if any, should be permitted to perform competency exams
- **Bottom line: who should conduct competency exams?**



Competency Examinations in Vermont

- Governed by 13 V.S.A. § 4814
- An evaluation of a defendant's competency to stand trial
 - Is the defendant able to understand the criminal charges?
 - Is the defendant able to meaningfully participate in the defense to the charges?
- Psychiatrists or doctoral-level psychologists trained in forensic psychology conduct the exam
- It is NOT an assessment of the defendant's sanity at the time the criminal offense occurred



Competency Examinations in Vermont

- Competency can be raised by the defendant, the prosecution, or the court
- It is a threshold issue, not a defense to the charges
- If defendant is found incompetent, a commitment hearing is scheduled to determine if defendant is dangerous to self or others
- A person found to be incompetent to stand trial can be recharged with the crime if the person regains competency

Competency Examinations in Other States

- **New York (N.Y. Crim. Pro. § 730.30)**

- Competency exam is performed by a “psychiatric examiner”
 - A qualified psychiatrist must be a diplomate of the American Board of Neurology and Psychiatry or eligible to be certified
 - A certified psychologist must be registered as a certified psychologist under N.Y. Ed. Law, Article 153

- **Rhode Island (R.I. Gen. Laws § 40.1-5.3-3)**

- Competency exam conducted by a physician licensed under R.I. title 5, chapter 37

- **Oregon (OR Rev. Stat. § 161.365)**

- Competency exam is performed by a “certified examiner” who completes Forensic Evaluator Training Program
 - Psychiatrist means a physician licensed by Oregon Medical Board and completed a residency program in psychiatry
 - Psychologist licensed by the Oregon Board of Psychologists



Questions?