

Court Ordered Competency Evaluations



What is a Court Ordered Competency Evaluation?

A competency evaluation is a court ordered mental health assessment to determine the ability of the defendant to understand the nature and consequences of the court proceedings.

[SDCL 23A-10A](#)

When and how are they requested?

The defendant, judge, or lawyer can request an evaluation whenever there are questions about a defendant's mental state.

[SDCL 23A-10A-3](#)

Who conducts the evaluation?

Evaluations are completed by licensed professionals qualified to conduct court ordered competency evaluations.

[SDCL 23A-46-1](#)

- [List of South Dakota professionals qualified to conduct evaluations.](#)
- [Process for eligible professionals to be listed as qualified to conduct court ordered competency evaluations.](#)

What happens during the evaluation?

The licensed professional conducts an evaluation of the defendant and files a report with the court. The examination must be completed within 21 days after the court order.

[SDCL 23A-46-2](#)

What happens after an evaluation is completed?

The licensed professional submits a report recommending whether the defendant is competent to stand trial. If found not competent by the courts, the defendant would be ordered to complete a restoration program as defined in 23A-10A-13.1, in which treatment can occur in an inpatient, outpatient, or jail based setting.

[SDCL 23A-10A-4](#)

What does it mean to be restored to competency?

The restoration process ensures the defendant understands the court process, the charges brought against them and is able to participate in their defense. Court proceedings would then resume after the defendant is found competent.

[SDCL 23A-10A-4.1](#)