



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
4.496

CHAPTER Program Implementation and Records	SUBCHAPTER Release and Discharge Procedures	EFFECTIVE DATE June 17, 2014	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT Determination of Fitness to Proceed to Criminal Trial		AUTHORITY Sections 552.020 and 630.050, RSMo	HISTORY See Below	
PERSON RESPONSIBLE Director, CPS			SUNSET DATE July 1, 2017	

PURPOSE: Prescribes policies and procedures for reviewing the status of clients committed under Section 552.020, RSMo.

APPLICATION: Applies to all facilities of the department confining clients pending determination of fitness to proceed.

(1) If an individual is committed as incompetent to stand trial, the Certified Forensic Examiner, as set out in DOR 6.478, should evaluate the individual's competency as soon as it appears that the individual may be competent to proceed to trial but no later than 180 days from admission or no later than the date specified in the Order.

(A) Upon evaluation, the Certified Forensic Examiner or other staff shall complete the "Review of Competency" form (DMH Form 8110), placing one copy in the medical record and sending another to the Director of Forensic Services.

(B) If the individual is considered to be competent to stand trial, the treatment staff shall prepare a "Motion to Proceed" along with a current competency assessment report and send it to the DMH Assistant General Counsel for the region for review and filing with the proper court as the designee of the department director.

(C) If the individual remains incompetent to stand trial, and it is the opinion of the Certified Forensic Examiner that restoration to competency is not likely in the reasonably foreseeable future, the Certified Forensic Examiner along with the treating staff shall assess the individual's suitability for civil detention or guardianship. The staff shall note the opinion on these issues in part 5 of 6 of the "Review of Competency" form. In addition, a copy of the latest competency assessment report should be sent to the Director of Forensic Services and the DMH Assistant General Counsel for the region with the "Review of Competency" form.

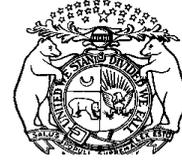
(D) If the staff has determined that the individual is not likely to be restored to competency, the Director of Forensic Services should work with the DMH Assistant General Counsel for the region to request that guardianship or civil commitment be pursued. If the charges are dismissed, the treating facility may continue to give service to the individual only if the individual is admitted after signing voluntary admission papers, is detained pursuant to Chapter 632, or is admitted by a guardian pursuant to Chapter 475.

(E) If guardianship is indicated, the Forensic Coordinator shall assure that the team initiates a guardianship packet, including but not limited to a current



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medical/psychiatric assessment and the appropriate clinician interrogatories. This information shall be sent to the DMH Assistant General Counsel for assistance.

(F). Once guardianship is obtained, the Assistant General Counsel for the region will file a motion with the court seeking to have the charges dismissed. If the charges are dismissed, the treating facility may continue to give service to the individual only if the individual is admitted after signing voluntary admission papers, is detained pursuant to Chapter 632, or is admitted by a guardian pursuant to Chapter 475.

(2) If the individual is incompetent at the 180-day review, but staff believes that he or she is likely to be restored to competency, the staff shall conduct another review no later than twelve (12) months from the date of admission or on the date specified in the order.

(A) If the individual is determined to be restored to competency, staff shall prepare a "Motion to Proceed" along with a competency assessment report and send it to the DMH Assistant General Counsel for the region for filing with the appropriate court.

(B) If the individual remains incompetent to stand trial, the staff shall follow the procedure outlined in subsections (C), (D) and (E) of section (2) of this DOR.

(3) The guidelines for reviewing the client's competency establish the maximum length of time that may elapse before review must occur. Review may occur at any time prior to the dates established by this regulation.

(4) Quality Assurance. The head of the mental health facility where clients committed under Section 552.020 reside shall, through the Forensic Coordinator or other designee, ensure that all appropriate staff are trained regarding the policies and procedures contained in this DOR.

HISTORY. Original DOR effective August 1, 1981. Amendment effective January 15, 1988. Amendment effective August 1, 1998. Amendment effective May 1, 1999. Amendment effective July 1, 2002. Amendment effective July 1, 2005. On July 1, 2008 the sunset date was extended to July 1, 2011. Amendment effective July 1, 2011. On July 1, 2011 the sunset date was extended to July 1, 2014. On June 17, 2014 the sunset date was extended to July 1, 2017.