

Governor announces legislation that increases access to mental health services for repeat defendants

Written by gallupsun
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SANTA FE — Gov. Michelle Lujan Grisham announced the introduction of legislation aimed at enhancing criminal procedure standards on Jan. 16.

Sponsored by Sen. Gerald Ortiz y Piño, Senate Bill 16 addresses concerns about a defendant's competency, establishing competency restoration programs, and ensuring the provision of state-funded mental health examinations.

"This bill reflects our commitment to a justice system that is fair, compassionate, and responsive to the mental health needs of individuals involved in the legal process," Lujan Grisham said in a Jan. 26 press release. "I urge the Legislature to support this important measure for the well-being of our communities."

Under current laws, individuals found not competent largely have charges against them dismissed and are given information about services.

"This measure gives our judges an additional option to get people the immediate help they need and is a proven mechanism for stopping the cycle of repeat offenses. We should be able to provide compassionate care and keep our streets safer at the same time, and this bill will do just that," Ortiz y Piño said.

Key provisions of Senate Bill 16 include:

- The ability for the judge, prosecutor, or defense attorney to refer a defendant for a mental health evaluation.
- Individuals that are found competent to stand trial will proceed through the normal channels of the criminal justice system.
- Individuals that are found incompetent to stand trial will be provided the least-restrictive means to receive mental health treatment (such treatment can also include drug and/or alcohol treatment).

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- After completion of the competency restoration program charges are dismissed, for misdemeanors and non-violent felonies.

In addition, the courts will conduct a hearing in conjunction with the defendant's mental health providers to determine whether the defendant is a danger to himself, others, or the community. When such a finding of dangerousness is made, a defendant may be admitted to in-patient, residential treatment until such time as he is restored to competence, but in no event for longer than 18 months.

Senate Bill 16 ensures that the state bears the cost of mental examinations for defendants, recognizing the importance of providing equitable access to mental health violations.

The legislation would include provisions:

- For violent felonies, if the defendant regains competence, the prosecution continues. If the defendant fails to gain competence, they will remain in the residential facility with intermittent reporting to the court about his progress.
- For non-violent felonies only: defendant may be referred to a diversion to treatment program for no longer than 18 months.
- Upon completion, charges are dismissed
- If defendant is unable or refuses to participate once referred, they may be assessed for civil commitment or assisted outpatient treatment.
- For misdemeanors: the defendant can be diverted to treatment and wraparound services for up to six months.

