

Adult Competence to Proceed (s. 916.12, F.S.) Decision Tree

The court has the authority to appoint a maximum of three experts to determine competency under s. 916.115, F.S. This flow chart illustrates sample scenarios of how a case could proceed following best practices and recommended statutory changes. It is not a comprehensive guide covering all possible outcomes.

Defendant is Evaluated by Expert for Competence to Proceed
Paid for by the court pursuant to s. 916.12, F.S.

Determined Incompetent to Proceed

Determined Competent to Proceed

Court accepts expert's findings;
Party disputes

Both parties stipulate to findings
(Only 1 expert needed when the parties stipulate)

Court accepts expert's findings; Party disputes
(The requesting party pays for 2nd expert)

Both parties stipulate to findings (Only 1 expert needed when the parties stipulate);
Judge issues written order of competence

Judge does not accept dispute

Judge accepts dispute and orders 2nd expert
(The court pays for 2nd expert)

Judge orders non-residential education

Judge orders involuntary commitment

Determined Incompetent to Proceed

Determined Competent to Proceed

Judge Holds Hearing. Decision entered.

Judge orders non-residential education

Determined Incompetent to Proceed

Determined Competent to Proceed

Defendant receives treatment and re-evaluation after 6 months

Judge orders 3rd expert (The court pays for 3rd expert)

Judge orders a hearing and issues a written order based the findings of 2 experts

Judge issues written order of competence; Case Moves Forward

Case Moves Forward

Judge orders non-residential education

Judge orders involuntary commitment

Judge orders 3rd expert (The court pays for 3rd expert)

Judge holds hearing, issues order with findings based on greater weight of experts/witnesses testimony

Case Moves Forward