

**ACLU**

New Mexico

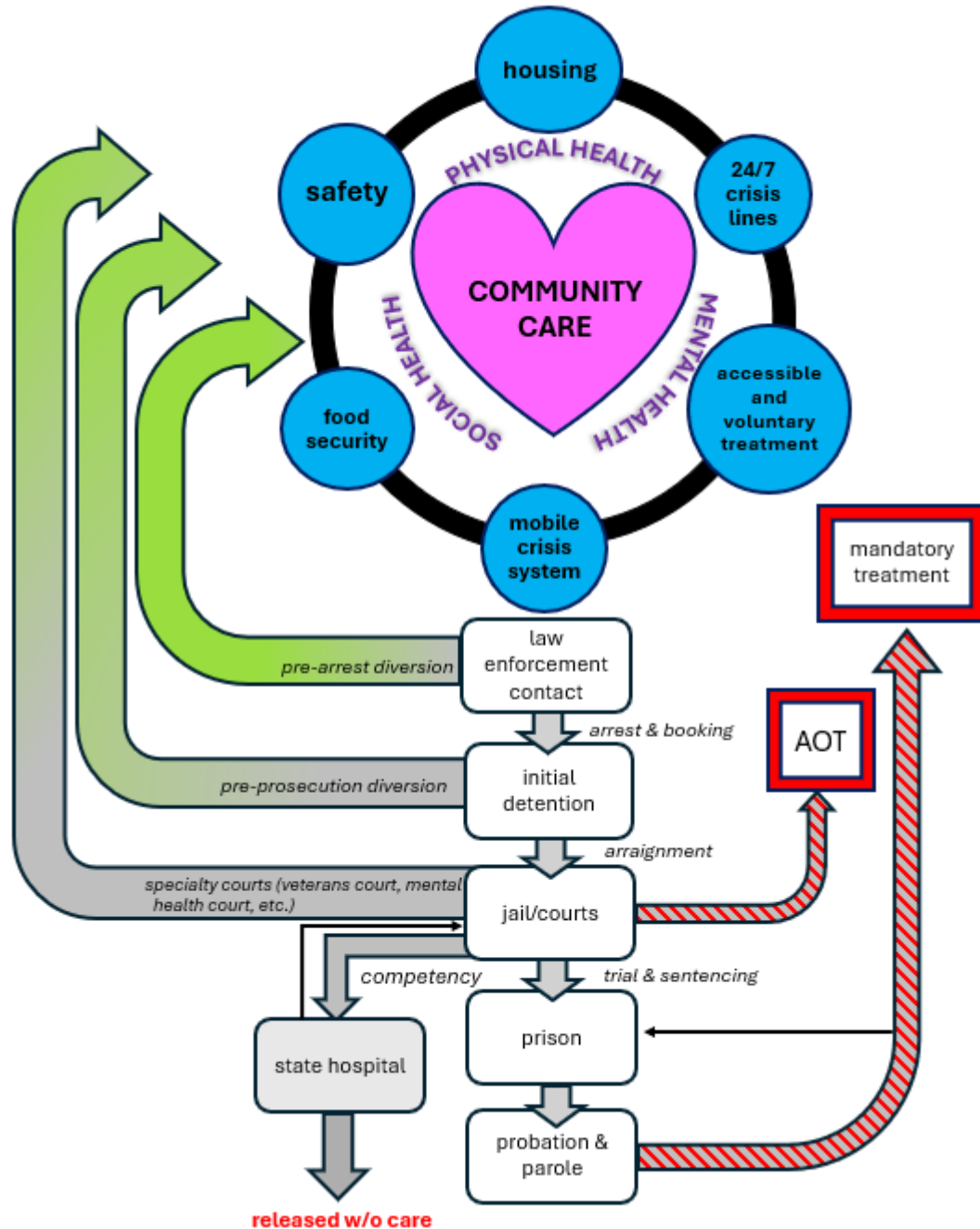
**MENTAL HEALTH TREATMENT:  
A CIVIL RIGHTS PERSPECTIVE**

Denali Wilson, Staff Attorney ACLU-NM

# Community care is key.

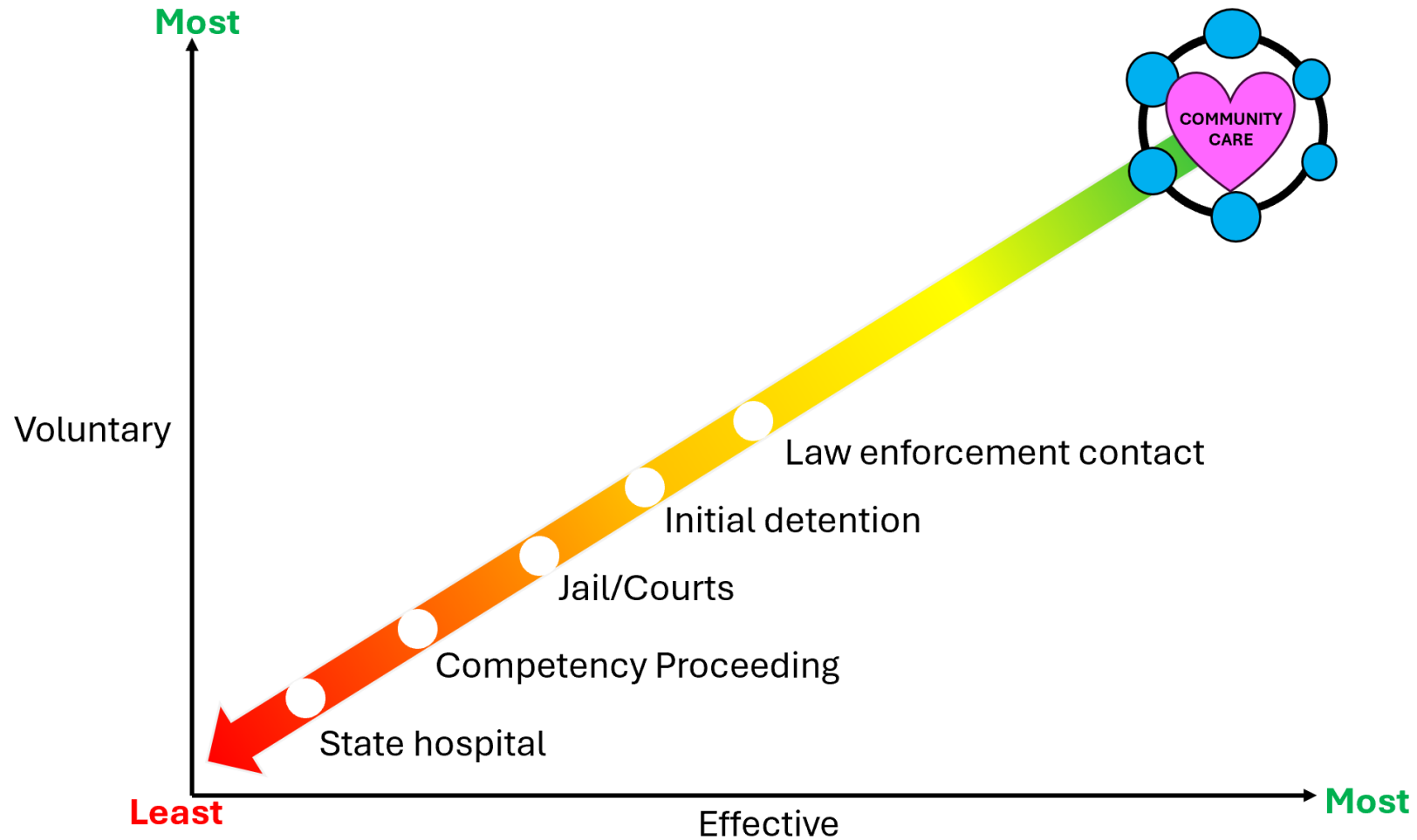
When individuals receive support within their communities where their basic needs are met, they are more likely to experience positive outcomes.

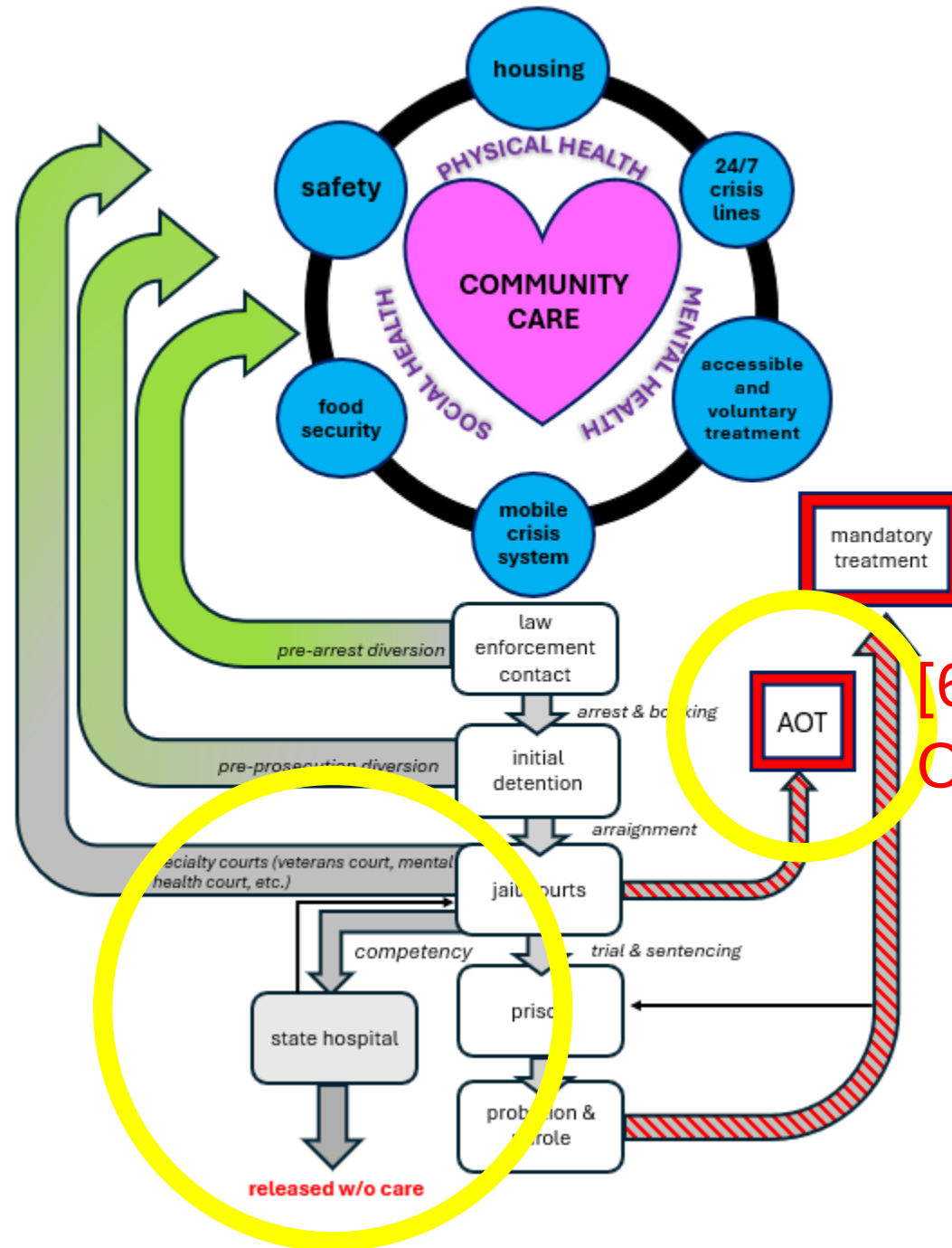




- To meet needs, the most effective interventions are ones that return people to community or prevent their removal all together.
- The later in the criminal process the intervention occurs, the more difficult it will be for people to engage or experience positive outcomes.

Treatment outcomes are most effectively when engagement is voluntary and nonpunitive.





[6-26 GOV UPDATE:  
ON HOLD FOR NOW]

# [6-26 GOV UPDATE: ON HOLD FOR NOW]

Proposed legislation would address two systems:

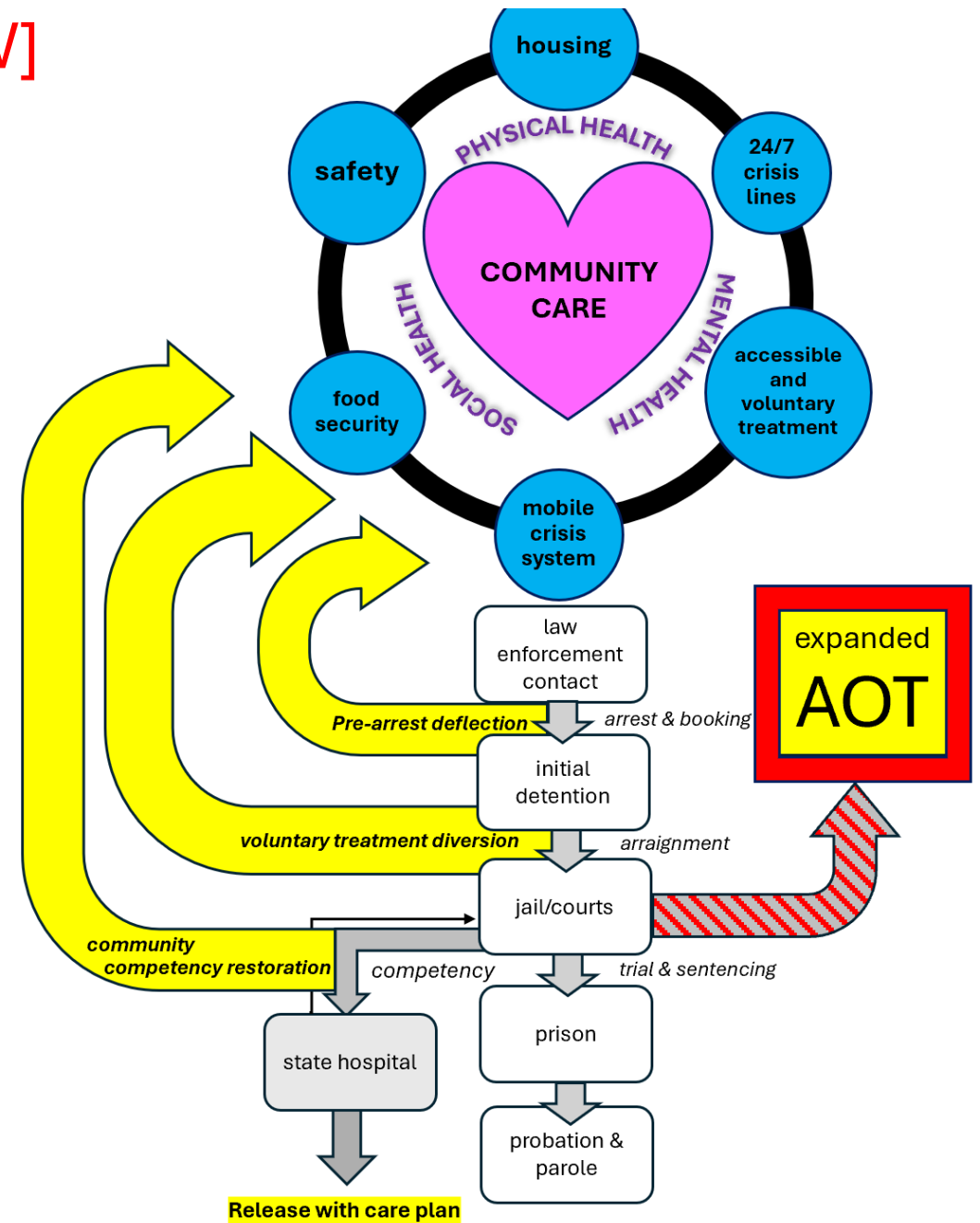
1. Criminal Competency
2. Assisted Out-Patient Treatment

Criminal Competency Changes:

1. Pre-arrest deflection
2. Pre-competency diversion
3. Community competency restoration
4. Care continuum from state hospital

Assisted Out-Patient Treatment Changes:

1. Expanded universe of individuals who can be committed through AOT
2. Expanded universe of petitioners



[6-26 GOV UPDATE: ON HOLD FOR NOW]

# AOT PROPOSED REVISIONS

## CURRENT LAW:

Mental disorder

+

history of lack of compliance

+

*at least 1 of 3 things*

1. Repeat hospitalizations
2. Acts of violence
3. Incarceration

## PROPOSED EXPANSION:

Mental disorder

+

not stabilized

+

“deterioration” or “relapse” likely

*dangerousness is the key to constitutionality, because deprivation of liberty must be supported by a compelling state interest (i.e. public safety).*

# 6-26 NEW proposals ...

## 1) **Dangerousness definition**

- *Why is dangerousness required?*
- *Compelling state interest*
- *Narrow tailoring to that compelling state interest*



# 6-26 NEW proposals ...

## 1) Dangerousness definition

- **Harm itself:**

“suicide,” “serious bodily harm,” “sexual offenses” → “serious bodily harm,” “serious physical debilitation,” “extreme destruction of property”

- **Likelihood of harm:**

“more likely than not” → “reasonable probability”

- **Indicia of this harm:**

“behavior causing, attempting, or threatening such harm” → “An inability to exercise self-control, judgment, and discretion,” “a showing of behavior that is grossly irrational or grossly inappropriate,” “extreme destruction of property”

- **Imminence:**

“near future” → “near future” + “relevant past”

# 6-26 NEW proposals ...

## **2) Competency changes**

- Removal of judicial and prosecutor discretion
  - DA must commence commitment proceedings in a variety of new scenarios
  - Judge must detain
- Dangerousness changes

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