

**MINUTES
of the
FIRST MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**May 6, 2024
State Capitol, Room 322
Santa Fe**

The first meeting of the Courts, Corrections and Justice Committee was called to order by Representative Christine Chandler, chair, on May 6, 2024 at 9:35 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Christine Chandler, Chair
Sen. Joseph Cervantes, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Janelle Anyanonu
Sen. Antonio Maestas
Rep. Alan T. Martinez
Sen. Greg Nibert
Sen. Bill B. O'Neill
Rep. Andrea Reeb
Rep. Andrea Romero
Sen. Antoinette Sedillo Lopez

Absent

Sen. Gregory A. Baca
Rep. Gail Chasey
Rep. William "Bill" R. Rehm
Rep. Angelica Rubio

Advisory Members

Rep. Cynthia Borrego
Rep. Micaela Lara Cadena
Sen. Katy M. Duhigg
Sen. Linda M. López
Rep. Tara L. Lujan
Sen. Mimi Stewart
Rep. Reena Szczepanski
Sen. Peter Wirth

Rep. John Block
Rep. Ambrose Castellano
Sen. Daniel A. Ivey-Soto
Rep. D. Wonda Johnson
Rep. Stefani Lord
Rep. Willie D. Madrid
Sen. Cliff R. Pirtle

Staff

Nancy Martinez, Bill Drafter, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS
Simon Suzuki, Staff Attorney, LCS
Domenica Nieto, Assistant Librarian, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

Monday, May 6

Review and Adoption of the 2024 Work Plan and Meeting Schedule

Representative Chandler led the committee in an open discussion of topics of interest for committee consideration during the interim. The topics discussed during the conversation included the following:

- a request for research and background information on a lawsuit against the City of Albuquerque regarding panhandling legislation;
- balanced programs and the involvement of civil rights and disability advocates in discussions regarding competency and commitment procedures;
- the committee will be responsible for the measures on the table regarding the importance of topics discussed; and
- the committee will meet in Santa Fe for all meetings preceding the special session but may travel in August, September and October.

Criminal Competency and Court Process

Stacey Boone, senior statewide behavioral health manager, Administrative Office of the Courts (AOC), and the Honorable James M. Hudson, district court judge, Fifth Judicial District, presented an overview of the current criminal competency and court process and answered committee members' questions about the process. The overview included a PowerPoint presentation that detailed the processes and included context and comments from the presenters. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20050624%20Item%203%20Criminal%20Competency%20and%20Court%20Process.pdf>.

A subsequent discussion among committee members included the following comments:

- a request for more information about the comprehensive treatment courts available and the role they can play when competency becomes an issue and questions about intercept 3 regarding the Sequential Intercept Model;
- whether more crimes should be included in the provision that requires civil commitment for defendants found to be incompetent to stand trial;

- questions about gender bias in competency procedures and determination and for state-specific data about gender bias and other demographic disparities;
- that the committee understand the essence of competency proceedings and their purpose, which has been a historical challenge. Judge Hudson responded that misdemeanor cases follow the same process but stop at the determination phase and are dismissed without prejudice. A member asked whether a stay would be more appropriate;
- questions about the time line for competency proceedings, specifically about the time line for a hearing after a report is submitted. Judge Hudson stated that he typically sets the hearing when the order for the evaluation is issued and that things can be pushed out if the evaluation is contested;
- questions about the jail system and mental health, concerns about people becoming a victim in the system and how the process puts great pressure on families of the defendant. A member related a personal anecdote about finding a missing defendant in a local hospital, drew attention to the issue of dual diagnoses and requested information about the relationship between past release, recidivism and mental health to victimhood; and
- capacity issues in the process and questions about the contract process and number of evaluators and situations when a person is detained for longer than a potential sentence and that the committee look more closely at diversion programs.

Introduction to Competency: Terms and Concepts

Ms. Boone and Simone Viljoen, Ph.D., clinical co-director, Second Judicial District Competency Clinic, presented an overview of what competency is, how it is determined and the process of evaluation. The presentation can be found here:

https://www.nmlegis.gov/handouts/CCJ%20050624%20Item%20%20Competency%20101_CCJ%20Presentation.pdf.

A subsequent discussion among committee members included the following comments:

- a member pointed out recordkeeping issues and asked if a centralized model is necessary and about the process for a defendant with multiple cases. Dr. Viljoen advised that one evaluation is done even if cases are not consolidated and stated that there is a bottleneck for evaluations but not for beds;
- what plans are made to review data regarding demographic disparities. Ms. Boone and Dr. Viljoen responded that a program assessment is forthcoming; and

- clarification that evaluations are available remotely, where evaluations are held, a question about adjunct services available to people waiting for determination and a request for data from the AOC about where services are available.

Initial Discussion with the Governor's Office Regarding the Special Session

Holly Agajanian, chief general counsel, Office of the Governor, and Benjamin A. Baker, senior public safety advisor, Office of the Governor, provided an overview of potential bills that the governor is considering for an upcoming special session. Ms. Agajanian summarized the changes that the governor would like to see to the assisted outpatient treatment legislation. The governor would like to see a retooling of the competency and civil and criminal commitment proceedings. The systems used in other states, particularly California and Alaska, have been studied. The governor would also like to see changes to the felon in possession of a firearm statute, with a possible increase in the sentence.

A subsequent discussion among committee members included the following comments:

- the competency issue needs to be addressed, but why couldn't the issues be pushed back to the sixty-day legislative session. A member indicated that the legislature should not rush on this matter and should have adequate time to review it;
- questions about the governor's points on tribal notification, that the competency issue is much broader and that there should be a focus on services and clarity from the governor. Ms. Agajanian responded that the goal would be that each judicial district provides wraparound services and that the governor intends for this process to include a working group;
- a member questioned the statistics regarding the felons-in-possession issue highlighted by the governor and stated that the penalty has been raised twice in last decade. A bill last session was not heard in the Senate Judiciary Committee because it was not put on the agenda. The member indicated that "the needle isn't moving" by increasing penalties and may be going in the wrong direction;
- a member asked how to leverage resources, had concerns about [assisted outpatient therapy] and questioned who can force parties into the court system based on claims of incompetence. The member noted the closure of a crisis triage center related to litigation concerning the wrongful detention of an incompetent person;
- an expectation of meaningful legislation from the governor's office and that the safety concerns of constituents and border initiatives be considered; and
- a request for more data on the issues, including data on automobile thefts in Albuquerque, so that the legislature may understand the scope of the problem.

Public Comment

A list of individuals making public comment is available in the meeting file.

Adjournment

There being no further business before the committee, the meeting adjourned at 2:33 p.m.