



**Superior Court of the State of Arizona
Pima County Juvenile Court
2225 E. AJO WAY,
Tucson, Arizona 85713-6295**

JUVENILE COMPETENCY PROCEDURES

1. Defense Counsel meets with client and notices possible competency issue.
2. Defense counsel shall investigate competency issue:
 - a. speak with minor and/or parents at greater length, a minimum of two hours is needed to determine is more time with counsel is all the minor needs to fully understand the proceedings.
 - b. obtain medical and/or school records (e.g., psycho-educational evaluation) etc.
3. When appropriate the Defense Counsel shall file a motion for competency evaluation. This may be filed at trial reviews or before the scheduled trial review. The motion must be specific. The following are examples that **ALONE** are **NOT** adequate:
 - a. Minor's young age
 - b. Minor has an IEP
 - c. Minor doesn't appear to understand (specify why this prevents adequate representation.)
4. If during the TR the Court grants the motion for competency evaluation under A.R.S. 8-291.02 the Court will:
 - a. Stay proceedings
 - b. Order 2 doctors each unless parties stipulate to 1 psychiatrist
 - c. Set a status hearing in 6 weeks
 - d. Defense counsel shall send all collateral documentation to Mona Ramirez within 14 days of motion being granted.
Examples: medical, school, behavioral health, psychiatric or psychological records and pending petition. A.R.S. 8-291.04(B)*

- e. The State shall disclose police report(s) to Mona Ramirez within 14 days of motion being granted. A.R.S. 291.04(B)*
- f. The Probation Officer shall disclose any relevant collateral information they have for example, detention records, within 14 days

*Statute says 3 days but Court will accept within 14 days.

** Motion filed PRIOR TO THE TR shall include the attached proposed minute entry order. This will allow the court to vacate the TR and set a date after the evaluations are completed. See Attachment A.

- 5. Mona Ramirez will set up appointments with evaluators as soon as possible and will prepare the Court Order with evaluator names and appointment times.

The Defense Counsel shall be available to the mental health experts.
A.R.S. 8-291.04 (C)

- a. Mona Ramirez will mail the information provided in section 4 of this procedures to evaluators who have assigned.
- 6. Defense Counsel will contact minor and parent or guardian (including CPS caseworker) to remind of evaluation dates. When possible Probation Officer will also call to remind minor and family of evaluation dates.
 - a. Minor may be detained if he/she fails to attend evaluation
A.R.S. 8-291.04(F) The detainment maybe for up to 30 days with an additional 15 days for good cause. A.R.S. 8-291.04(G)
 - b. The minor's parents may be held in contempt and required to pay a fine if they fail to get the minor to the scheduled appointments. (If a fine is assessed, may be equivalent cost of missed appointment.)

7. If an appointment is missed Mona Ramirez will reset and a new order will be sent out with the date(s) of evaluation(s). Defense Counsel and probation shall again notify minor and family of new appointment date and time.
8. If evaluations and reports are unable to be completed by status hearing date the court date may be changed in Chambers and parties notified.
9. The mental health expert shall submit their report within 10 working days of the examination. A.R.S. 8-291.07. When the evaluation reports are received, the original is filed with the Clerk of the Court under seal and a copy is provided to defense counsel.
10. Defense counsel shall redact the evaluation report and provide a copy to the State, the Court and Probation within 24 hours. A.R.S. 8-291.07(A) *This applies to **ALL** reports.
11. Within 3 working days of both redacted evaluations being disclosed, defense counsel and the State shall determine if they intend to
 - a. Request a hearing
 - b. Stipulate on reports
12. If decision is to request a hearing the parties shall appear at the status conference and hearing will be set at that time. *The hearing must be set within 30 days of the date the reports were filed. A.R.S. 8-291.08(A).
13. If parties intend to submit on the reports this motion and minute entry order must be submitted 3 days prior to the status hearing and shall be submitted to the assigned judge. This request must be in writing. A.R.S. 8-291.08(A). The order is provided as attachment B.

*All competency paperwork should include a copy to Mona Ramirez and Dr. Beverly Tobiason.
14. If reports indicate the minor competent, defense counsel and state should be prepared to proceed with either a plea or setting a trial date **immediately** at the status hearing set for competency. The court proceeding shall continue without delay. A.R.S. 8-291.08(B)

15. If the reports indicate the minor is not competent and **not** restorable within the statutory 240 days;
 - a. The court shall dismiss the matter with prejudice and
 - b. In some cases, dependency and GAL or treatment in State Hospital may apply. A.R.S. 291.08(D)

16. If not competent but restorable within 6 months,
 - a. If the parties intend to stipulate on the reports there must be either a stipulation to probable cause on the petition or the State must provide probable cause prior to filing the stipulation. At any competency hearing where restoration may be ordered the State must be prepared to provide probable cause to the Court.
 - b. Detailed minute entry order on restoration will be signed by the court and filed A.R.S. 8-291.08 (E)
 - c. A GAL will be appointed A.R.S. 8-291.09(B)
 - d. Restoration services will be provided (Note: if minor fails to attend restoration he/she may be ordered into custody to complete program.)
 - e. The initial status hearing will be set in approximately 6 weeks to 2 months to determine how the restoration program is proceeding.
 - f. The court will set a status hearing no less than 2 weeks prior to the expiration of statutory time limits.

17. Throughout the restoration program the GAL shall communicate with the minor and mental health expert regarding the minor's progress, the number of appointments, and any other issues regarding the minor's progress in the program. A.R.S. 8-291.09 (B)

The GAL **shall** request a status conference with the Court if the minor fails to attend two or more restoration appointments.

The GAL **shall** appear or provide a written status report at each status conference to update the Court on the minors progress.

18. The mental health expert will file a report on the minor's progress in restoration program. The report should be filed 3 working days **before**

the status hearing set in the competency matter. The report will be received by Mona Ramirez and original filed with Clerk of the Court under seal in legal file and defense counsel receives a copy. Defense counsel shall redact and provide a copy of the report to the State, Probation Officer, GAL and Court within 24 hours. A.R.S. 8-291.10(A)

19. If the minor is not restorable refer to dismissals above.
20. If there is a disagreement as to restoration at the status hearing a hearing as to competency will be set before the assigned judge. The hearing may be at the request of the county attorney, defense counsel or GAL 8-921.10(C).
21. If the minor is not restorable but has made substantial progress the Court may extend restoration by 60 days if there is clear and convincing evidence that further participation will restore the minor. A.R.S. 8-291.10(C)
22. If restored, parties should be **immediately** ready to proceed with plea or setting trial at the status hearing. A.R.S. 8-291.10(F)