Competency Restoration: Use of State Hospitals, Community-Based, and Jail-Based Approaches

NRI's 2024-2025 State Profiles June 2026

Highlights based on 40 States (including the District of Columbia and Puerto Rico) responding to the Forensic Component of NRI's 2024-2025 State Mental Health Agency (SMHA) Profiling System and NRI's Behavioral Healthcare Performance Measurement System (BHPMS) Data from State Psychiatric Hospitals in 29 States

The public mental health system is experiencing an influx of court referrals for individuals with mental health issues in need of competency to stand trial (CST) evaluation and restoration services.[i] The United States legal system recognizes criminal defendants must be competent to stand trial before proceeding with the legal process, in that they are oriented to time and place, have some recollection of events, have sufficient present ability to consult with their lawyer, and have a rational and factual understanding of the legal proceedings.[ii] Competency restoration involves restoring a defendant to competency through treatment of underlying mental illness and instruction in legal concepts and the trial process.[iii]

Given this surge, public mental health systems are challenged to meet the complex needs of these individuals in a timely manner, often resulting in extended wait-times for individuals in need of competency-related services.[iv] To help alleviate the strain on state psychiatric hospitals, states have been developing creative ways to meet the needs of forensically-involved individuals, including investments in building inpatient forensic capacity and the expansion of forensic community-based and jail-based programs.

As part of NRI's 2024-2025 SMHA Profiles System, 40 states (including the District of Columbia and Puerto Rico) responded to the Forensics Mental Health Services Component of State Profiles in the Spring of 2025. This report highlights key findings related to competency restoration for adults from State Profiles. In addition, this report highlights findings from an analysis of trends in state psychiatric hospital populations using data from NRI's Behavioral Healthcare Performance Measurement System (BHPMS).

Location of CST Restorations

Competency restoration is managed at the state level in 37 of 39 responding states. Two states reported CST restoration is not managed at the state level (Florida, Vermont).

States provide competency restoration services in a variety of settings. Overall, the highest percentage of states report providing competency restoration services in the inpatient state psychiatric hospital setting (*n*=39 of 40 states, 97.5%). About two-thirds of states provide competency restoration services in an outpatient community-based setting (*n*=27 of 40 states,

64%
of CST Restorations Occurred in Inpatient Psychiatric Hospitals

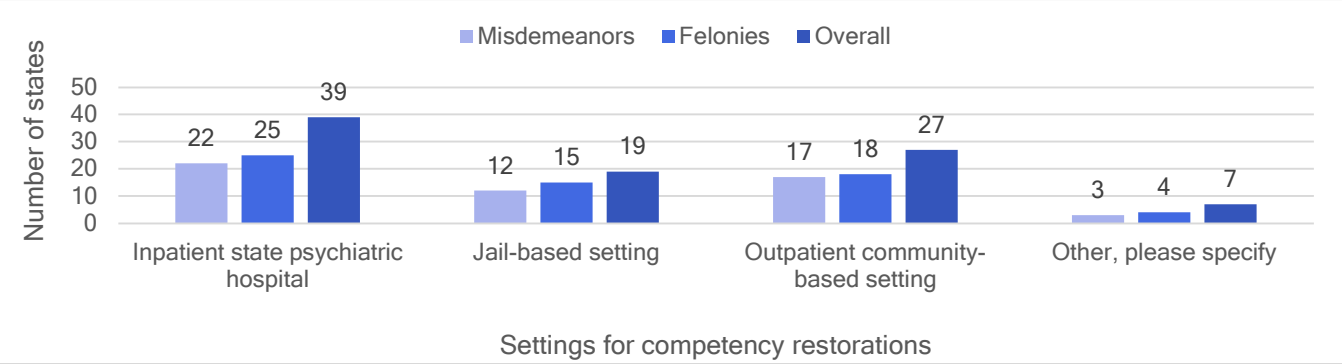
32 of 40
States have Waitlists for Adult CST Restorations

Mean Across 25 States
137
Average Monthly Adults on Waitlist for CST Restorations

67.5%) and about half of states do so in a jail-based setting (*n*=19 of 40 states, 47.5%) (see **Figure 1**). Several states are providing competency restoration services in other settings. For example, California delivers competency restoration services through the Early Access and Stabilization Services (EASS) Program, which is a hybrid model of restoration services established through a collaboration between the California Department of State Hospitals (DSH) and county Sheriff's Offices. This program delivers multidisciplinary psychiatric stabilization and restoration services for patients not yet admitted to a jail-based or DSH program. Other settings for competency restoration services mentioned include the Department of Developmental Services (Connecticut), community hospital (Illinois), and contracted private inpatient units (Indiana).

With the growth of community-based restoration, whether as outpatient or jail-based, it will be important to examine these trends in utilization over time, as well as outcomes across settings.

Figure 1: Number of States Providing Competency Restoration Services by Setting and Charge Level



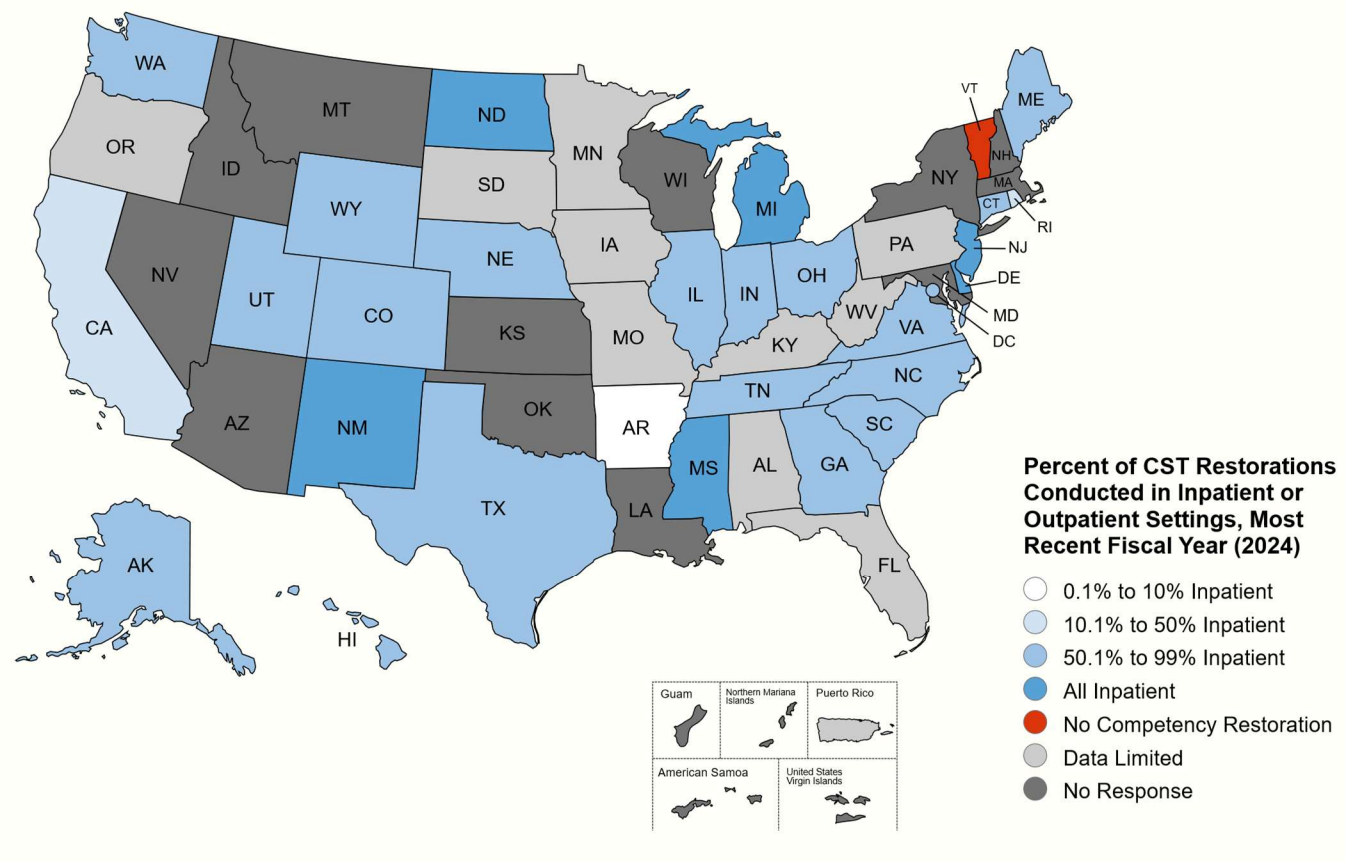
Note: The total number of states reporting providing competency restoration services in any setting is 40. Twenty-seven states report providing competency restoration services separately for misdemeanor charges by setting, and 26 states report providing competency restoration services separately for felony charges by setting.

One of 40 responding states does not provide competency restoration services in the inpatient state psychiatric hospital setting (Vermont). Eighteen of 37 responding states do not provide competency restoration services in a jail-based setting and 11 of 38 states do not provide competency restoration services in an outpatient community-based setting.

Twenty-eight of 40 states provided counts of competency restorations by setting. States reported the majority of CST restorations occurred in the inpatient state psychiatric hospital setting (64%). About 12 percent of competency restorations occurred outpatient in the jail setting, 13 percent in the outpatient community setting, and 10 percent in an other setting (e.g., community hospital, contracted private inpatient units). Of the 28 SMHAs reporting counts of CST restorations by setting, all CST restorations were conducted in an inpatient setting in six states. One state reported less than 10 percent of CST restorations occur in an inpatient

setting and two states reported between 10 and 50 percent occur in an inpatient setting. Eighteen states conduct between 51 percent and 99 percent of CST restorations in an inpatient setting. (See **Figure 2**.)

Figure 2: Percent of CST Restorations Conducted in Inpatient or Outpatient Settings, Most Recent Fiscal Year (2024-2025)



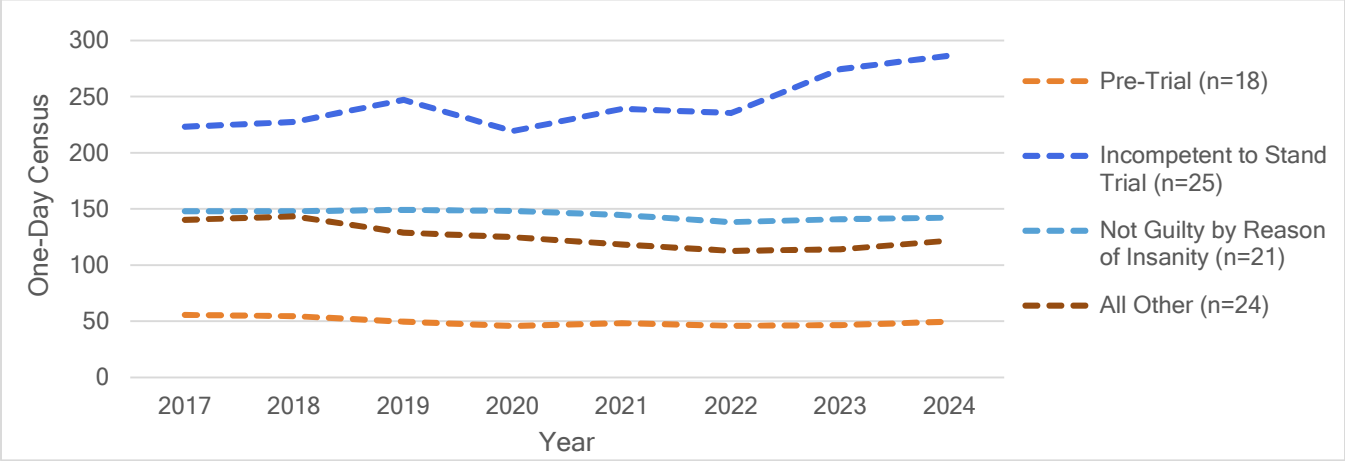
Created with mapchart.net

Trends in One-Day Census and Admissions of Forensic Patients 2017 – 2024

An analysis of NRI's Behavioral Healthcare Performance Measurement System (BHPMS) data from 29 states shows an increase in the one-day census and admissions of adult forensic patients from 2017 to 2024 in state psychiatric hospitals, particularly among patients with an incompetent to stand trial (IST) legal status at the time of admission. Note, a declining trend is seen for other forensic categories for the same time period (see **Figures 3 and 4**).

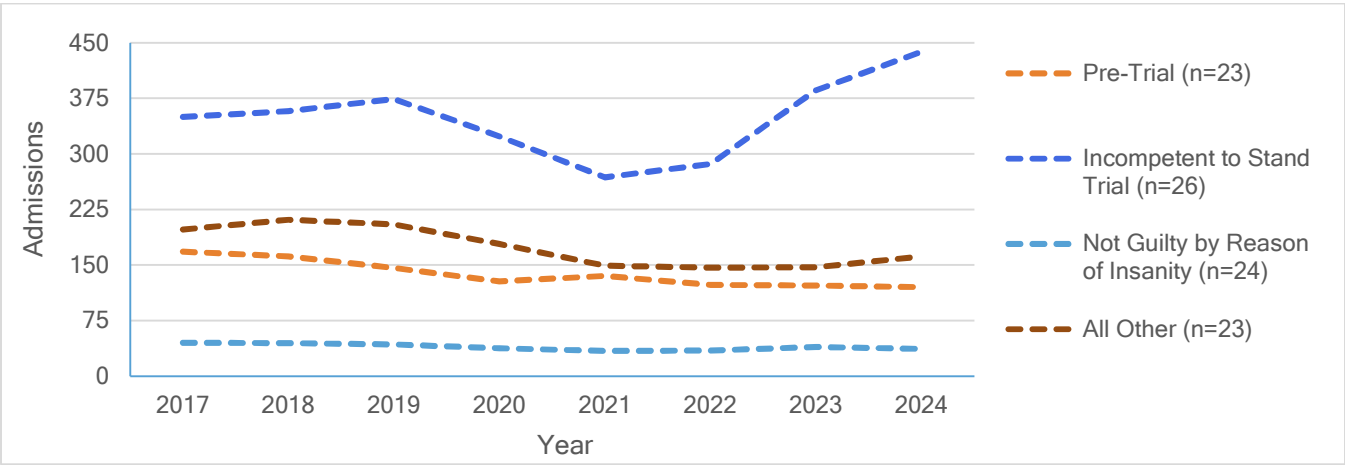
The BHPMS data show a 28.5 percent increase in the one-day census of adult IST patients from 2017 to 2024 across 25 states.

Figure 3: Mean Annual One-Day Census of Adult Forensic Patients at State Psychiatric Hospitals by Admission Legal Status, 2017-2024



The BHPMS data show a 25.2 percent increase in annual admissions of adult IST patients from 2017 to 2024 across 26 states.

Figure 4: Mean Annual Admissions of Adult Forensic Patients at State Psychiatric Hospitals by Admission Legal Status, 2017-2024



Statutes Regarding Competency Restoration

Discretion to Determine Location of Competency Restoration Services[v]

In 32 states, the courts have the discretion to determine where a patient will receive competency restoration services. Sixteen responding states reported the state mental health authority (SMHA) has the discretion to determine the location of competency restoration

services and competency evaluators have the discretion in three states (Illinois, Iowa, and Ohio). Three states (Iowa, New Jersey, and Ohio) describe the role of forensic evaluators in determining where a patient will receive competency restoration services. In Iowa, forensic evaluators are required by law to inform the decision by opining regarding dangerousness and appropriate setting for restoration in their report, but the courts make the ultimate decision. Iowa's Department of Health and Human Services (HHS) has provided the courts and evaluators with a decision-making guide to increase their ability to apply legal criteria to specific clinical considerations. In New Jersey, the forensic evaluator recommends if hospital restoration is recommended, but the court must order it. No formal outpatient restoration programs are available in New Jersey. In Ohio, the forensic evaluator makes a least restrictive setting opinion and the court makes the final determination, taking into account risk and security factors.

Washington described the role of forensic navigators in determining where a patient will receive competency restoration services. In Washington, forensic navigators offer recommendations to the courts about outpatient competency restoration, but the final decision rests with the court.

In North Dakota and Nebraska, the courts have the final determination. In North Dakota, the courts decide where a patient will receive competency restoration, but at this time, the North Dakota State Hospital is the only facility that provides restoration services. In Nebraska, the SMHA can recommend where competency restoration should occur, but courts have final determination about whether they accept an outpatient restoration recommendation.

Best Practices for Outpatient Community-Based Restoration Services

States that offer competency restoration services in outpatient settings shared best practices they have observed based on their experience. To ensure high-quality competency restoration services for adults, 12 states (Alabama, District of Columbia, Georgia, Minnesota, Missouri, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Virgina, Washington) are investing in **educational and training activities** for their competency restoration providers including, for example, the Slater Method[vi], CompKit Competency Recovery System[vii], standardized competency restoration curriculum, and continued training for outpatient providers.

Examples of Best Practices for Outpatient Competency Restoration Identified by States

- *Delivery of educational and training to providers*
- *Care Coordination*
- *Case Management*
- *Peer Support*
- *Use of forensic navigators*
- *Housing supports*
- *Establishment of advisory/oversight boards*
- *Individual-level treatment plans*
- *Flexibility (e.g., telehealth, transportation support)*

Ten states (Alabama, California, Connecticut, District of Columbia, Georgia, Hawaii, Iowa, Rhode Island, Texas, Washington) identified **care coordination** between competency providers and providers of supportive services in the community as critical to the success of competency restoration programs for adults in other settings. For example, in Texas, service providers help to ensure competency restoration clients have access to a broad spectrum of support services, including housing assistance, vocational training, and educational resources, to build a stable foundation that supports mental health recovery and competency restoration.

Four states (Alabama, North Carolina, Texas, Washington) identified **peer support** as a best practice in competency restoration. The District of Columbia identified **Forensic Peer Navigators** as critical to achieving positive outcomes for individuals receiving competency services. Forensic Peer Navigators are individuals with their own lived experience who help individuals understand the forensic, judicial, and mental health system processes and provide guidance on how to effectively navigate the multiple systems they interact with to access supportive resources.[viii] Rhode Island and Tennessee identified **Forensic Navigators** as a best practice in outpatient competency restoration (Rhode Island, Tennessee). In recent years, Tennessee has expanded a program of Criminal Justice Liaisons to facilitate access to mental health services, including outpatient competency restoration to cover all local jails across the state.

Four states (Hawaii, Ohio, Texas, Washington) also recognize the value of providing **housing services** to individuals receiving competency services. For example, Ohio provides rental assistance, and Washington implements two housing programs described also above, including Forensic Housing and Recovery through Peer Services (FHARPS), and Forensic Projects for Assistance for Transitions from Homelessness (FPATH).

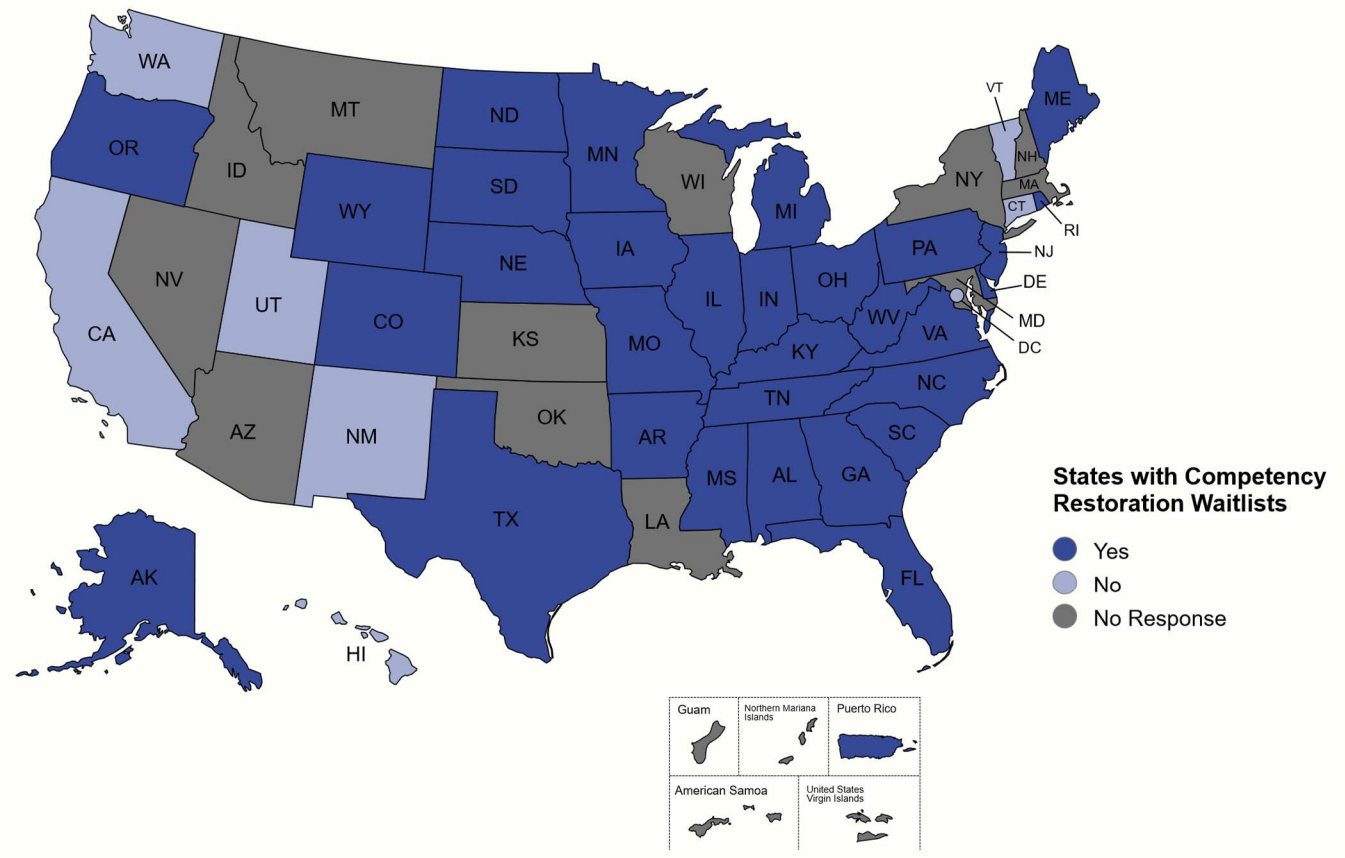
Other best practices identified by one state each include early intervention services (California), discharge planning (Iowa), comprehensive community-based fitness restoration classes for defendants (Hawaii), Forensic Mobile Teams (Missouri), Distress Tolerance

(Alabama), motivational interviewing (Alabama), group and individual therapy (Iowa), legal education (Iowa), skills training (Iowa), wraparound services (North Carolina), Forensic Assertive Community Treatment (North Carolina)[ix], vocational services (Texas), Wellness Recovery Action Plan (WRAP) groups (Washington), and coping skills (Washington).

CST Restoration – Waitlist

Thirty-two states have a waitlist for adult competency restoration (see **Figure 5**). Of these, 31 report having a waitlist for inpatient competency restoration and 6 have a waitlist for outpatient competency restoration (Alabama, Iowa, Maine, Minnesota, Puerto Rico, and South Dakota). Six states have a waitlist for competency restoration for misdemeanor-level charges and 11 states have a waitlist for competency restoration for felony-level charges. Twenty-four states reported the monthly average number of adults on a waitlist for competency restoration across all charges and settings for the most recently completed fiscal year. Delaware reported the minimum monthly average of 5 adults on the waitlist for competency restoration. Georgia reported the maximum monthly average of 600 adults on the waitlist for competency restoration. Across 24 states, the mean monthly average number of adults on the waitlist for CST restorations is 137 adults, with a median of 48 adults.

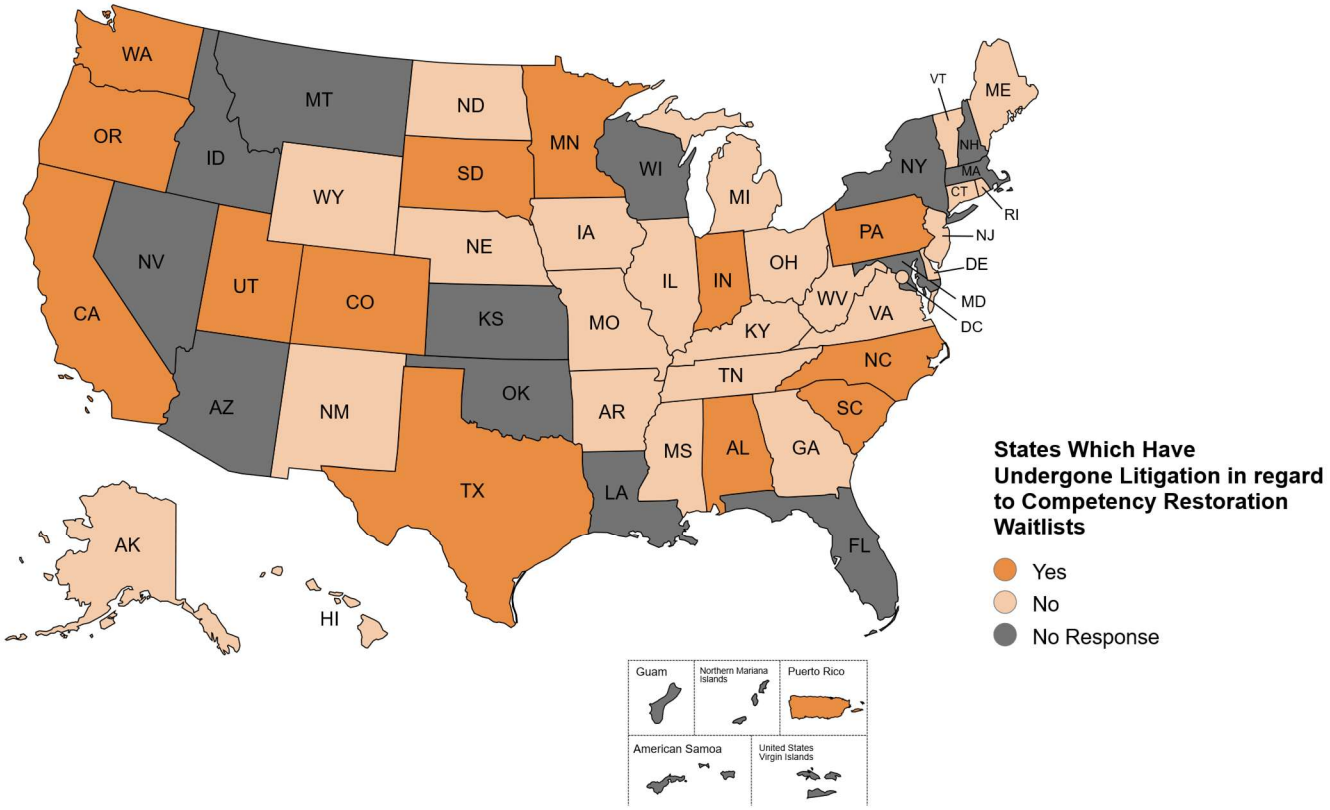
Figure 5: Map of States Reporting Waitlist for Adult CST Restoration



Created with mapchart.net

Fourteen of 39 responding states have undergone litigation related to their state's competency restoration waitlist (see **Figure 6**). Lawsuits have been filed relating to delays in providing competency evaluation or restoration services to individuals who are found IST, which has resulted in individuals sitting in jails often without access to necessary services. For example, the Trueblood et al. v. Washington State DSHS lawsuit filed in 2014 challenged unconstitutional delays in competency evaluation and restoration services for individuals detained in jails, which resulted in a Contempt Settlement Agreement ordering the state to provide jail-based competency evaluations within 14 days and in-patient competency evaluation and restoration services within seven days of court orders.[x]

Figure 6: Map of States Reporting Undergoing Litigation in Regards to Competency Restoration Waitlists



Created with mapchart.net

States describe a variety of approaches they are taking to address their competency restoration waitlist including implementing or expanding jail-based and community-based restoration, increasing inpatient bed capacity, changing statutes, streamlining discharges from inpatient treatment, prioritizing appropriate admissions for inpatient treatment, implementing diversion programs, and hiring staff. For example:

- The Alabama Department of Mental Health is (1) providing ongoing education to court personnel, (2) implementing/expanding outpatient restoration (jail and for people on bond), (3) streamlining the restoration program to create efficiencies with restoring

defendants, (4) providing education to increase opportunities for diversion, (5) increasing the number of inpatient beds, (6) using case management and care coordination to move people from community residential settings to the community more efficiently.

- In California, the initiative to address the waitlist includes increasing bed capacity, initiating competency restoration treatment services at pre-admission (while patients are on waitlist for admission into a DSH facility), establishing an independent placement panel to step patient down from the inpatient hospitals into outpatient conditional release treatment with CONREP, changes to statute to allow for less confusion regarding who has authority to enforce involuntary medication orders, expansion of diversion programs, and expansion of community-based competency restoration programs. California has also established a competency re-evaluation panel to identify those who have been restored, either before or immediately after admission.

- Colorado created a triage system for inpatient admissions based on acuity, which is now opined as part of the initial competency evaluation. Colorado is also contracting with private acute care psychiatric hospitals for contracted restoration beds to increase bed capacity from 8 in 2019 to 90 in 2025 and has implemented outpatient and jail-based restoration programs to manage the waitlist.

- South Carolina sought and adopted statutory changes in 2022 to expand the maximum time for restoration and settings to provide restoration, which have been very effective in improving restoration rates, reducing civil commitments, and in providing a framework for expansion of restoration services to meet demand through use of alternative settings. The use of state civil beds to serve forensic patients has allowed for increased restoration capacity overall, but it has compressed civil capacity. Implementation of jail-based restoration programming has also been successful. The newly established CST pre-screening consultation service for attorneys is allowing cases to be diverted away from forensic commitment.

- The Texas Health and Human Services Commission (HHSC) is in the process of expanding, renovating, and building new state hospital facilities to expand mental health treatment capacity. Additionally, HHSC is expanding community-based competency restoration programs such as Outpatient Competency Restoration and Jail Based Competency Restoration. HHSC is also expanding inpatient capacity by contracting for inpatient competency restoration services and providing education and support to county stakeholders on active waitlist monitoring through Jail in Reach and Forensic Support Team Programs.

- Washington has focused on building more “beds” in the community and in inpatient facilities as well as hiring inpatient staff, community staff, support staff, and forensic evaluators. Washington also created a forensic navigator program and outpatient

competency restoration program among other initiatives. All of these efforts have contributed to Washington not having a waitlist for 12 months.

Changes in Competency Restoration Policy and Service Initiatives

States also shared information on any recent policy or service initiatives that have led to a change in the number of adult patients who receive competency restoration services at the state psychiatric hospital(s) or in other settings (e.g., community-based, jail-based). Eight states (20.5%) report changes that led to an increase in adult patients receiving competency restoration services in state psychiatric hospitals. For example, the Texas Legislature made a $2.5 billion investment to replace and renovate state hospitals, including new state-operated hospitals, with additional capacity for forensic patients.

Eighteen states (45%) indicate changes in their state have led to an increase in adult patients receiving competency restoration services in other settings (e.g., community-based, jail-based), including legislative changes and service initiative/programming changes. Six states indicate changes in their state that have led to an increase in IST patients receiving competency restoration services in both the state hospital and other settings.

Examples of legislative changes include:

- In 2020, Nebraska's State Legislature passed a revised statute allowing the Department of Health and Human Services (DHHS) to establish a network of facilities and providers to provide competency restoration services in the community.
- In Ohio, outpatient competency restoration began in 2022 after passage of SB2, which states that non-violent misdemeanor cases cannot be admitted to inpatient competency restoration.
- In 2022, statutory changes in South Carolina allowed competency restoration services to be provided at alternate sites, rather than exclusively in inpatient settings.
- In 2023, South Dakota's legislature codified a law allowing for outpatient and jail-based competency restoration services, leading to a decrease in IST restoration services in state hospitals, and an increase in services provided in the community. No states indicate changes in their state have led to a decrease in CST restorations in other settings.

Examples of service initiative/programming changes include:

- In Illinois, the Department of Human Services initiated a jail-based mental health pilot in March 2024 to provide forensic referrals with more robust mental health services while waiting for inpatient psychiatric admission. Providing these services while in jail custody serves to alleviate strain on county jails that provide minimal mental health services

which often exacerbates their mental health symptoms and are a challenge for these jails to manage. Since its inception the program has expanded to include three locations where these programs operate and provide treatment and forensic education.[xi]

- Within the last year, Mississippi's Department of Mental Health has worked with the MacArthur Justice Center in implementing a forensic navigator program. As part of this program, the forensic navigator assists courts in diverting appropriate IST patients into treatment options in lieu of prosecution.
- In the summer of 2024, North Carolina's Department of Health and Human Services (DHHS) partnered with Alliance Health, a Managed Care Organization, to pilot three community-based capacity restoration programs in three counties. This pilot allows IST patients to receive community-based restoration services.
- Puerto Rico has also realized an increase in the number of individuals admitted for IST restoration in state psychiatric hospitals and other settings. To address the increase, Puerto Rico has expanded jail-based restoration services to achieve competency.

Most states that shared policy or service initiative changes related to CST restoration report the changes led to an increase in restorations in settings other than state psychiatric hospitals (i.e., community-based and jail-based).

---

[i] Wik, A., Hollen, V., and Fisher, W.H. (2017, August). *Forensic patients in state psychiatric hospitals: 1999-2016.* Technical Assistance Collaborative Paper No. 10. Rockville, MD: Substance Abuse and Mental Health Services Administration.

[ii] Dusky v. United States, 362 U.S. 402 (1960). https://www.oyez.org/cases/1959/504%20MISC

[iii] Mossman, D, Noffsinger, S. G., Ash, P., Frierson, R. L., Gerbasi, J., Hackett, M., Lewis, C., Pinals, D. A., Scott, C. L., Sieg, K. G., Wall, B. W., & Zonana, H. V. (2007). AAPL practice guideline for the forensic psychiatric evaluation of competence to stand trial. The Journal of the American Academy of Psychiatry and the Law, 35 (Supplement 4), S3-S70. https://jaapl.org/content/35/Supplement_4/S3.long

[iv] Callahan, L. and Pinals, D.A. (2020, July). Challenges to reforming the competence to stand trial and competence restoration system. *Psychiatric Services, 71*(7):691 – 705.

[v] Note, this item was select all that apply. States could select more than one response.

[vi] Wall, B.W. and Christopher, P.P. (2012). A training program for defendants with intellectual disabilities who are found incompetent to stand trial. *Journal of the American Academy of Psychiatry and the Law Online, 40*(3), 366 – 373. https://jaapl.org/content/40/3/366

[vii] Pennsylvania Department of Human Services, Office of Mental Health and Substance Abuse Services. (2019, February). CompKit: A comprehensive approach to competency restoration training for criminal clients.

https://www.pa.gov/content/dam/copapwp-pagov/en/dhs/documents/services/assistance/documents/individual-pages/forensic-wait-list/CompKit%20-%20A%20Comprehensive%20Approach%20to%20Competency%20Restoration%20Training%20for%20Criminal%20Clients.pdf

[viii] Substance Abuse and Mental Health Services Administration GAINS Center. (2017, August). Peer support roles in criminal justice settings. https://www.cdcr.ca.gov/ccjbh/wp-content/uploads/sites/172/2019/06/WebinarSupportingDocument_PeerRolesinCJSettings508.pdf

[ix] For additional information on Forensic Assertive Community Treatment (FACT) see https://library.samhsa.gov/sites/default/files/pep19-fact-br.pdf

[x] https://www.dshs.wa.gov/bha/trueblood-et-al-v-washington-state-dshs

[xi] Illinois Department of Human Services. (2026). Jail based mental health services (27-444-42-3851-01). https://www.dhs.state.il.us/page.aspx?item=176744