

# Mental Health Law – Legislative Update

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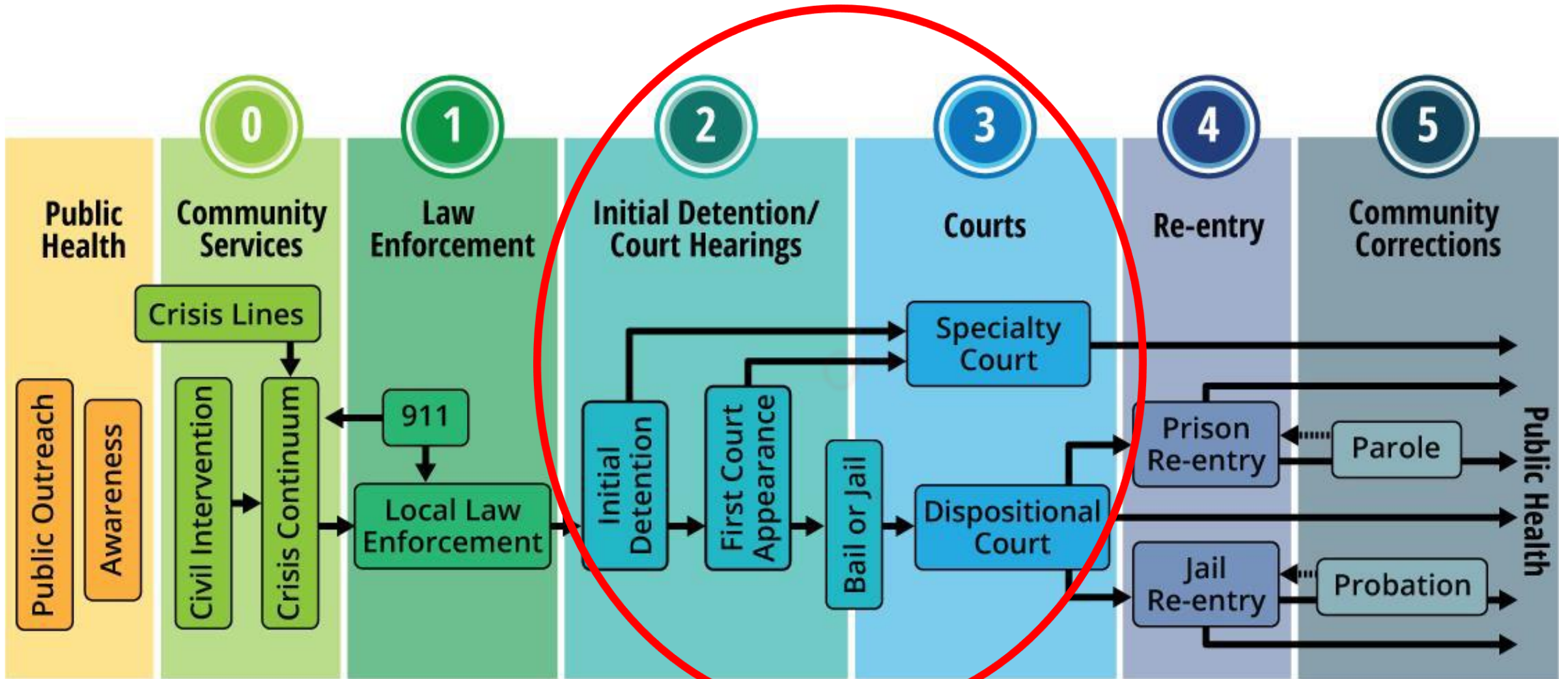
# Overview - Legislation in 2021

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- ***S.B. 49*** (JCMH bill)
- ***H.B. 3774*** (re Justice and Municipal Courts)
- ***S.B. 6*** (2d special session; personal bonds)



# Intercepts 2 & 3: Courts





# S.B. 49 - Highlights



- 16.22 Amendments:
- (No) interview for out-of-custody defendant
- Expanded list of who receives reports



## S.B. 49 - Highlights

- Exceptions to oath requirement for promise to appear in certain situations
- When does the competency restoration period begin



Dr. Floyd Jennings

# S.B. 49 - Highlights

## Competency:

- Revisions to Jail Based Competency Restoration provisions – including deadlines for evaluations
- Step-downs from the maximum security unit



# S.B. 49 - Highlights

- Expert qualifications in insanity cases - 46C.102
- Psychiatric stabilization at the jail





# S.B. 49 – Items removed late in the Session

- Would have allowed credits for time in OCR
- Would have added a statutory process for dismissing a case in a justice or municipal court for when a defendant with MI or IDD is incompetent
- Pleas in justice or municipal court for defendants who are incompetent





# H.B. 3774 – JCMH Recommendation

- Pleas in justice or municipal court for defendants who are incompetent
- Adds Art. 45.0241:  
“A justice or judge may not accept a plea of guilty or plea of nolo contendere from a defendant in open court unless it appears to the justice or judge that the defendant is mentally competent and the plea is free and voluntary.”



# S.B. 6 – 2d Called Session

- Limits on use of personal bond
- Tensions with 17.032 – personal bond for certain persons with MI or IDD with treatment condition orders
- Harmonizing the statutes



# Other JMHC recommendations

- S.B. 362 Task Force recommendations



# The Court's Role(s) in MH cases:

- **Diversion gatekeeper**
- **The court as a convener!**
- **Competency proceedings, IF needed**
- **Know the alternatives**
- **New Checklists!!!**



# Diversion Opportunities

- **16.22(c)(5) – Diversion Roadmap for Transfer**
  - **Does the offense “involve an act, attempt, or threat of serious bodily injury to another person”?**
- **“Non-statutory” diversion**

# Competency Restoration – only if needed

- Competency restoration process ≠ mental health treatment, per se. Especially for low-level offenses, a court should consider diversion or dismissal instead.
- Legislative approaches in other states

# Parting Thoughts

- Significant legislative reforms over the last three sessions
- Tremendous engagement by the courts and judges!!!