611.44 CONTESTED HEARING PROCEDURES.

Subdivision 1. **Request for hearing.** (a) The prosecutor or defense counsel may request a hearing on the court examiner's competency report by filing a written objection no later than ten days after the report is filed.

(b) A hearing shall be held as soon as possible but no longer than 30 days after the request, unless extended by agreement of the prosecutor and defense counsel, or by the court for good cause.

(c) If an independent court examiner is retained, the hearing may be continued up to 14 days after the date the independent court examiner's report is filed. The court may continue the hearing for good cause.

Subd. 2. **Competency hearing.** (a) The court may admit all relevant and reliable evidence at the competency hearing. The court examiner is considered the court's witness and may be called and questioned by the court, prosecutor, or defense counsel. The report of the court examiner shall be admitted into evidence without further foundation.

(b) Defense counsel may testify, subject to the prosecutor's cross-examination, but shall not violate attorney-client privilege. Testifying does not automatically disqualify defense counsel from continuing to represent the defendant. The court may inquire of defense counsel regarding the attorney-client relationship and the defendant's ability to communicate with counsel. The court shall not require counsel to divulge communications protected by attorney-client privilege, and the prosecutor shall not cross-examine defense counsel concerning responses to the court's inquiry.

Subd. 3. **Determination without hearing.** If neither party files an objection, the court shall determine the defendant's competency based on the reports of all examiners.

Subd. 4. **Burden of proof and decision.** The defendant is presumed incompetent unless the court finds by a preponderance of the evidence that the defendant is competent.

History: *2022 c 99 art 1 s 30; 2023 c 14 s 18,19; 2023 c 52 art 1 s 14*