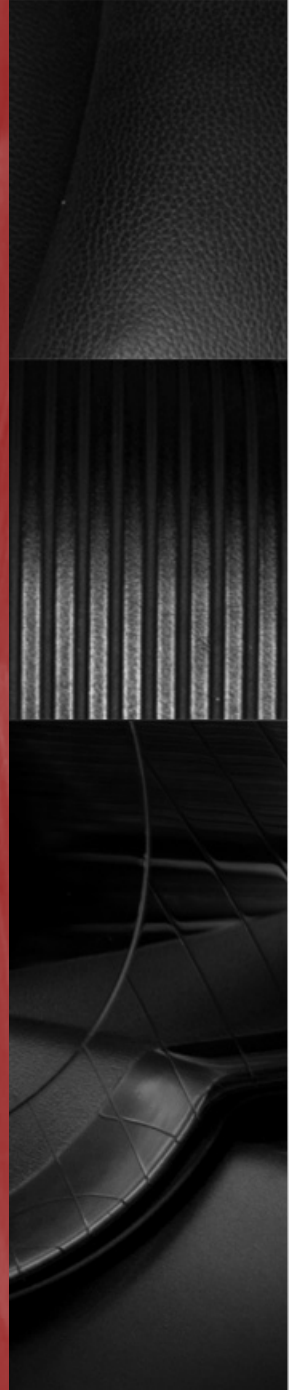


Capacity and Commitment

Fall District Court Judges Conference

John Rubin
UNC School of Government
October 2025



JAIL

Criminal court
motion

Civil district
court hearing

Local
capacity
exam

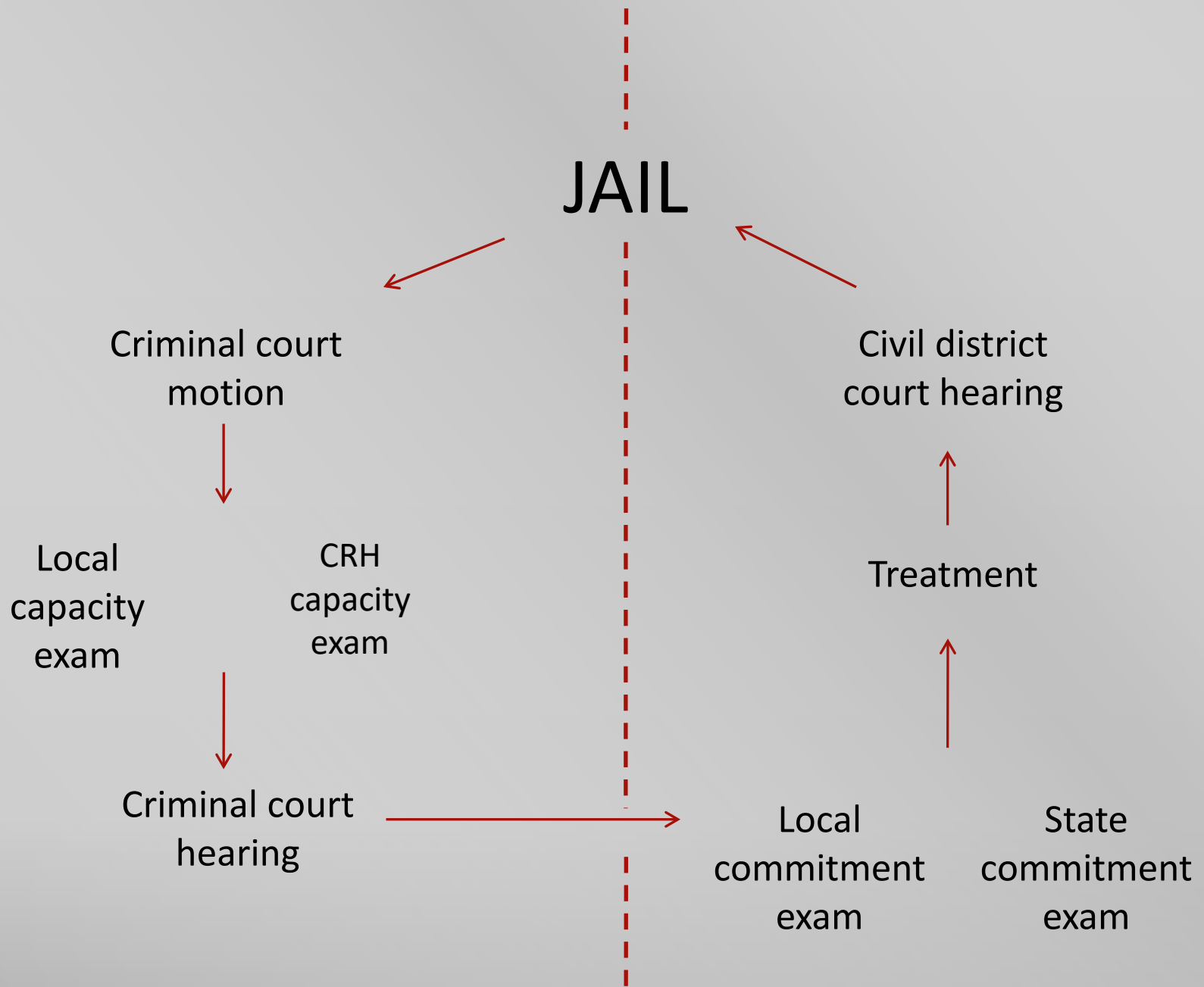
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Jackson v. Indiana, 406 U.S. 715 (1972)

“[A] person charged . . . with a criminal offense who is committed solely on account of his incapacity to proceed to trial cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future. If it is determined that this is not the case, then the State must either institute the customary civil commitment proceeding that would be required to commit indefinitely any other citizen, or release the defendant.”



Commentary to 15A-1001 to 15A-1009

- “In order to accomplish these requirements [from *Jackson v. Indiana*], this draft provides that when the trial court determines that the defendant does not have capacity to proceed, it will turn him over . . . for civil commitment proceedings.”

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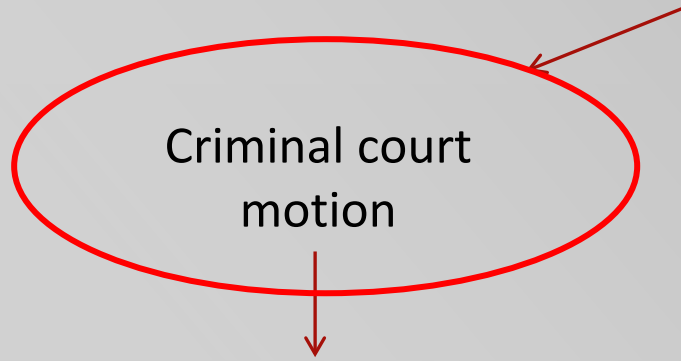
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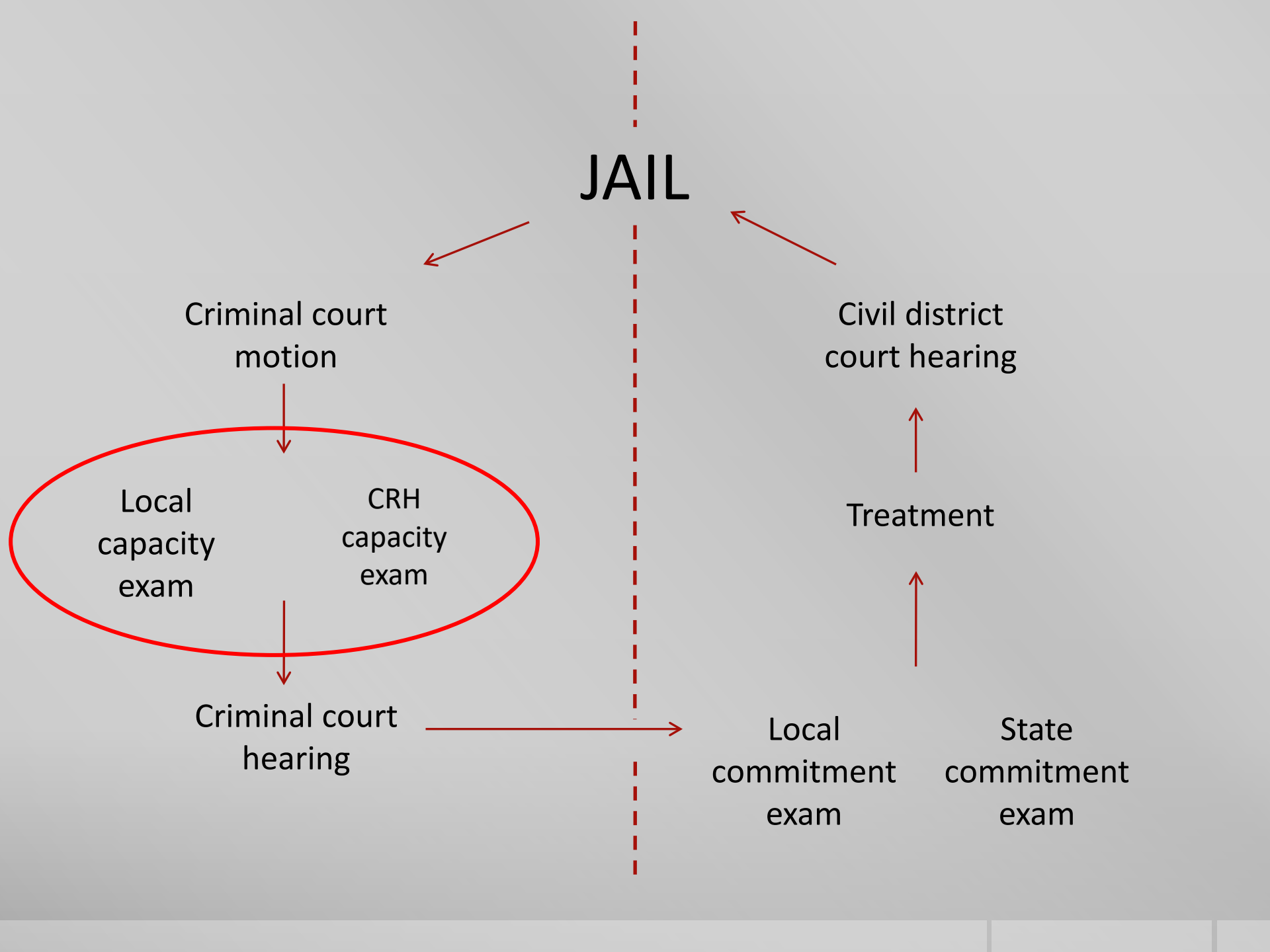
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Three Determinations under 15A-1003

1. Determine whether the defendant is capable to proceed
2. If the defendant is incapable, determine whether the defendant meets the criteria for commitment
3. If the defendant meets the criteria for commitment, determine whether the defendant was charged with a violent or nonviolent offense



Definition of Violent Offense

- “[A] violent crime, including a crime involving assault with a deadly weapon.” G.S. 15A-1003(a)
 - Whether a crime is “violent” depends on elements. *In re Murdock*, 222 N.C. App. 45 (2012)
 - Whether a crime “involves” assault with a deadly weapon depends on facts. *Id.*

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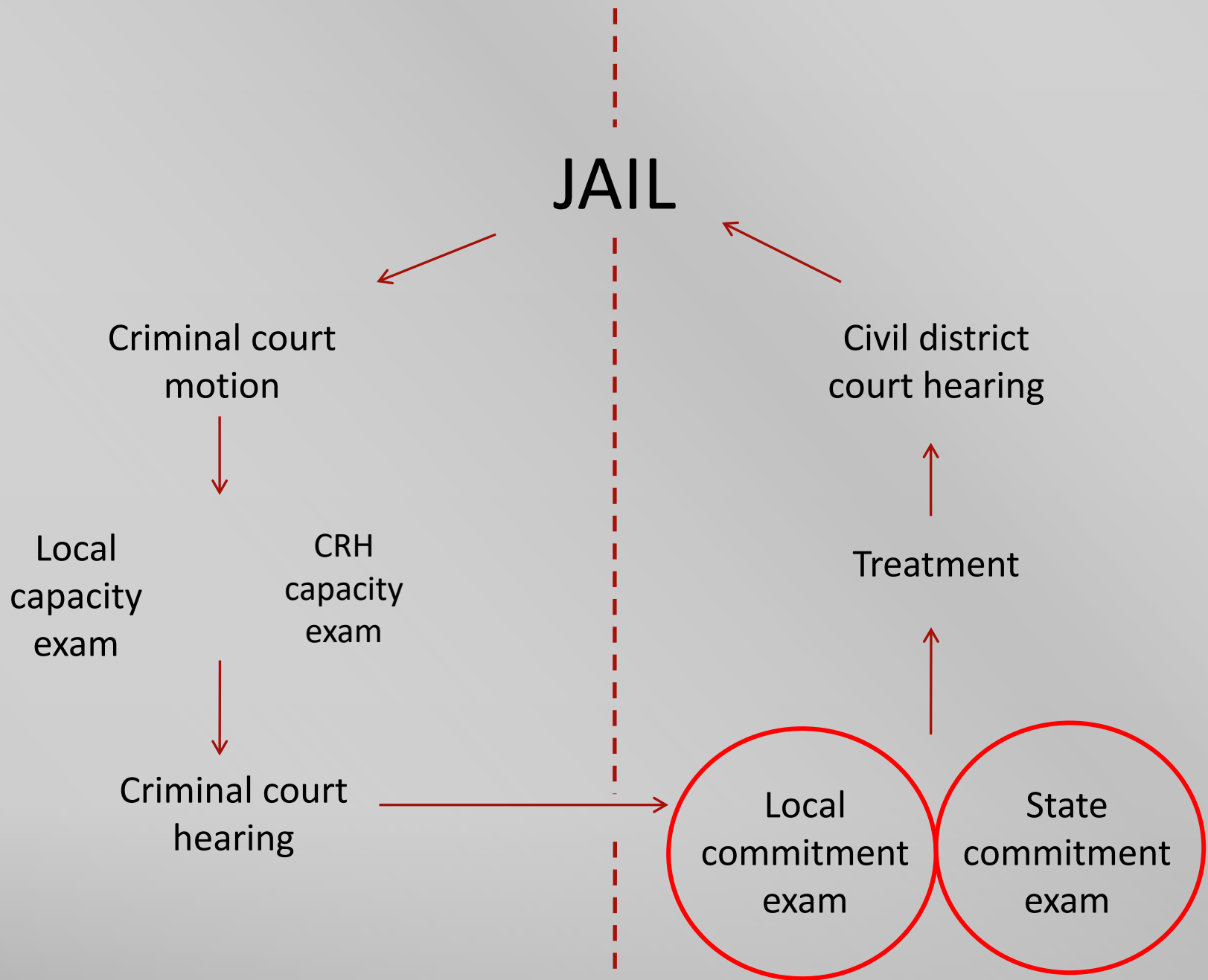
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Mandatory Dismissal per G.S. 15A-1008

- When a defendant lacks capacity to proceed, the court shall dismiss the charge if
 1. it appears the defendant will not gain capacity
 2. the defendant has been confined for the maximum term for the most serious offense, or
 3. five years have elapsed in a misdemeanor case and ten years have elapsed in a felony case after a finding of incapacity



Pretrial Release

- Pending capacity determination. *See* 15A-1002(c)
- Pending commitment proceedings. *See* 15A-1003(b)
- If not placed in custody of hospital. *See* 15A-1004(b)