

1.1 ..... moves to amend H.F. No. 2725, the first engrossment, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "ARTICLE 1

1.4 COMPETENCY TO STAND TRIAL

1.5 Section 1. [611.40] APPLICABILITY.

1.6 Notwithstanding Rules of Criminal Procedure, rule 20.01, sections 611.40 to 611.59  
1.7 shall govern the proceedings for adults when competency to stand trial is at issue. This  
1.8 section does not apply to juvenile courts. A competency examination ordered under Rules  
1.9 of Criminal Procedure, rule 20.04, must follow the procedure in section 611.43.

1.10 Sec. 2. [611.41] DEFINITIONS.

1.11 Subdivision 1. Definitions. For the purposes of sections 611.40 to 611.58, the following  
1.12 terms have the meanings given.

1.13 Subd. 2. Alternative program. "Alternative program" means any mental health or  
1.14 substance use disorder treatment or program that is not a certified competency restoration  
1.15 program but may assist a defendant in attaining competency.

1.16 Subd. 3. Cognitive impairment. "Cognitive impairment" means a condition that impairs  
1.17 a person's memory, perception, communication, learning, or other ability to think. Cognitive  
1.18 impairment may be caused by any factor including traumatic, developmental, acquired,  
1.19 infectious, and degenerative processes.

1.20 Subd. 4. Community-based treatment program. "Community-based treatment program"  
1.21 means treatment and services provided at the community level, including but not limited  
1.22 to community support services programs as defined in section 245.462, subdivision 6; day  
1.23 treatment services as defined in section 245.462, subdivision 8; mental health crisis services

2.1 as defined in section 245.462, subdivision 14c; outpatient services as defined in section  
2.2 245.462, subdivision 21; residential treatment services as defined in section 245.462,  
2.3 subdivision 23; assertive community treatment services provided under section 256B.0622;  
2.4 adult rehabilitation mental health services provided under section 256B.0623; home and  
2.5 community-based waivers; and supportive housing. Community-based treatment program  
2.6 does not include services provided by a state-operated treatment program.

2.7 Subd. 5. **Competency restoration program.** "Competency restoration program" means  
2.8 a structured program of clinical and educational services that is certified and designed to  
2.9 identify and address barriers to a defendant's ability to understand the criminal proceedings,  
2.10 consult with counsel, and participate in the defense.

2.11 Subd. 6. **Competency restoration services.** "Competency restoration services" means  
2.12 education provided by certified individuals to defendants found incompetent to proceed.  
2.13 Educational services must use the curriculum certified by the State Competency Restoration  
2.14 Board as the foundation for delivering competency restoration education. Competency  
2.15 restoration services does not include housing assistance or programs, social services, or  
2.16 treatment that must be provided by a licensed professional including mental health treatment,  
2.17 substance use disorder treatment, or co-occurring disorders treatment.

2.18 Subd. 7. **Court examiner.** "Court examiner" means a person appointed to serve the  
2.19 court, and who is a physician or licensed psychologist who has a doctoral degree in  
2.20 psychology.

2.21 Subd. 8. **Forensic navigator.** "Forensic navigator" means a person who meets the  
2.22 certification and continuing education requirements under section 611.55, subdivision 4,  
2.23 and provides the services under section 611.55, subdivision 2.

2.24 Subd. 9. **Head of the program.** "Head of the program" means the head of the competency  
2.25 restoration program or the head of the facility or program where the defendant is being  
2.26 served.

2.27 Subd. 10. **Jail-based program.** "Jail-based program" means a competency restoration  
2.28 program that operates within a correctional facility licensed by the commissioner of  
2.29 corrections under section 241.021 that meets the capacity standards governing jail facilities.  
2.30 A jail-based program may not be granted a variance to exceed its operational capacity.

2.31 Subd. 11. **Locked treatment facility.** "Locked treatment facility" means a  
2.32 community-based treatment program, treatment facility, or state-operated treatment program  
2.33 that is locked and is licensed by the Department of Health or Department of Human Services.

3.1 Subd. 12. **Mental illness.** "Mental illness" means an organic disorder of the brain or a  
3.2 clinically significant disorder of thought, mood, perception, orientation, or memory, that  
3.3 grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand,  
3.4 that is manifested by instances of grossly disturbed behavior or faulty perceptions. Mental  
3.5 illness does not include disorders defined as cognitive impairments in subdivision 3; epilepsy;  
3.6 antisocial personality disorder; brief periods of intoxication caused by alcohol, drugs, or  
3.7 other mind-altering substances; or repetitive or problematic patterns of using any alcohol,  
3.8 drugs, or other mind-altering substances.

3.9 Subd. 13. **State-operated treatment program.** "State-operated treatment program"  
3.10 means any state-operated program, including community behavioral health hospitals, crisis  
3.11 centers, residential facilities, outpatient services, and other community-based services  
3.12 developed and operated by the state and under the control of the commissioner of human  
3.13 services, for a person who has a mental illness, developmental disability, or chemical  
3.14 dependency.

3.15 Subd. 14. **Suspend the criminal proceedings.** "Suspend the criminal proceedings"  
3.16 means nothing can be heard or decided on the merits of the criminal charges except that the  
3.17 court retains jurisdiction in all other matters, including but not limited to bail, conditions  
3.18 of release, probation conditions, no contact orders, and appointment of counsel.

3.19 Subd. 15. **Targeted misdemeanor.** "Targeted misdemeanor" has the meaning given in  
3.20 section 299C.10, subdivision 1, paragraph (e).

3.21 Subd. 16. **Treatment facility.** "Treatment facility" means a non-state-operated hospital,  
3.22 residential treatment provider, crisis residential withdrawal management center, or corporate  
3.23 foster care home qualified to provide care and treatment for persons who have a mental  
3.24 illness, developmental disability, or chemical dependency.

3.25 **Sec. 3. [611.42] COMPETENCY MOTION PROCEDURES.**

3.26 Subdivision 1. **Competency to stand trial.** A defendant is incompetent and shall not  
3.27 plead, be tried, or be sentenced if, due to a mental illness or cognitive impairment, the  
3.28 defendant lacks the ability to:

3.29 (1) rationally consult with counsel;

3.30 (2) understand the proceedings; or

3.31 (3) participate in the defense.

4.1 Subd. 2. **Waiver of counsel in competency proceedings.** (a) A defendant must not be  
4.2 allowed to waive counsel if the defendant lacks ability to:

4.3 (1) knowingly, voluntarily, and intelligently waive the right to counsel;

4.4 (2) appreciate the consequences of proceeding without counsel;

4.5 (3) comprehend the nature of the charge;

4.6 (4) comprehend the nature of the proceedings;

4.7 (5) comprehend the possible punishment; or

4.8 (6) comprehend any other matters essential to understanding the case.

4.9 (b) The court must not proceed under this law before a lawyer consults with the defendant  
4.10 and has an opportunity to be heard.

4.11 Subd. 3. **Competency motion.** (a) At any time, the prosecutor or defense counsel may  
4.12 make a motion challenging the defendant's competency, or the court on its initiative may  
4.13 raise the issue. The defendant's consent is not required to bring a competency motion. The  
4.14 motion shall be supported by specific facts but shall not include communications between  
4.15 the defendant and defense counsel if disclosure would violate attorney-client privilege. By  
4.16 bringing the motion, the defendant does not waive attorney-client privilege.

4.17 (b) If competency is at issue, the court shall appoint a forensic navigator to provide the  
4.18 forensic navigator services described in section 611.55 for the defendant, including  
4.19 development of a specific plan to identify appropriate housing and services if the defendant  
4.20 is released from custody or any charges are dismissed.

4.21 (c) In felony, gross misdemeanor, and targeted misdemeanor cases, if the court determines  
4.22 there is a reasonable basis to doubt the defendant's competence and there is probable cause  
4.23 for the charge, the court must suspend the criminal proceedings and order an examination  
4.24 of the defendant under section 611.43.

4.25 (d) In misdemeanor cases, other than cases involving a targeted misdemeanor, if the  
4.26 court determines there is a reasonable basis to doubt the defendant's competence and there  
4.27 is probable cause for the charge, the court must suspend the criminal proceedings. The court  
4.28 may order an examination of the defendant under section 611.43 if the examination is in  
4.29 the public interest. For purposes of this paragraph, an examination is in the public interest  
4.30 when it is necessary to assess whether the defendant has a cognitive impairment or mental  
4.31 illness; determine whether a defendant has the ability to access housing, food, income,  
4.32 disability verification, medications, and treatment for medical conditions; or whether a

5.1 defendant has the ability to otherwise address any basic needs. The court shall order the  
5.2 forensic navigator to complete a bridge plan as described in section 611.55, subdivision 3  
5.3 and submit it to the court. The court may dismiss the charge upon receipt of the bridge plan  
5.4 without holding a hearing unless either party objects.

5.5 Subd. 4. **Dismissal, referrals for services, and collaboration.** (a) Except as provided  
5.6 in this subdivision, when the court determines there is a reasonable basis to doubt the  
5.7 defendant's competence and orders an examination of the defendant, a forensic navigator  
5.8 must complete a bridge plan with the defendant as described in section 611.55, subdivision  
5.9 3, submit the bridge plan to the court, and provide a written copy to the defendant before  
5.10 the court or prosecutor dismisses any charges based on a belief or finding that the defendant  
5.11 is incompetent.

5.12 (b) If for any reason a forensic navigator has not been appointed, the court must make  
5.13 every reasonable effort to coordinate with any resources available to the court and refer the  
5.14 defendant for possible assessment and social services, including but not limited to services  
5.15 for engagement under section 253B.041, before dismissing any charges based on a finding  
5.16 that the defendant is incompetent.

5.17 (c) If working with the forensic navigator or coordinating a referral to services would  
5.18 cause an unreasonable delay in the release of a defendant being held in custody, the court  
5.19 may release the defendant. If a defendant has not been engaged for assessment and referral  
5.20 before release, the court may coordinate with the forensic navigator or any resources available  
5.21 to the court to engage the defendant for up to 90 days after release.

5.22 (d) Courts may partner and collaborate with county social services, community-based  
5.23 programs, jails, and any other resource available to the court to provide referrals to services  
5.24 when a defendant's competency is at issue or a defendant has been found incompetent to  
5.25 proceed.

5.26 (e) Counsel for the defendant may bring a motion to dismiss the proceedings in the  
5.27 interest of justice at any stage of the proceedings.

5.28 **Sec. 4. [611.43] COMPETENCY EXAMINATION AND REPORT.**

5.29 Subdivision 1. **Competency examination.** (a) If the court orders an examination pursuant  
5.30 to section 611.42, subdivision 3, the court shall appoint a court examiner to examine the  
5.31 defendant and report to the court on the defendant's competency to proceed. A court examiner  
5.32 may obtain from court administration and review the report of any prior or subsequent  
5.33 examination under this section or under Rules of Criminal Procedure, rule 20.

6.1 (b) If the defendant is not entitled to release, the court shall order the defendant to  
6.2 participate in an examination where the defendant is being held, or the court may order that  
6.3 the defendant be confined in a treatment facility, locked treatment facility, or a state-operated  
6.4 treatment facility until the examination is completed.

6.5 (c) If the defendant is entitled to release, the court shall order the defendant to appear  
6.6 for an examination. If the defendant fails to appear at an examination, the court may amend  
6.7 the conditions of release and bail pursuant to the Rules of Criminal Procedure, rule 6.

6.8 (d) A competency examination ordered under Rules of Criminal Procedure, rule 20.04,  
6.9 shall proceed under subdivision 2.

6.10 Subd. 2. **Report of examination.** (a) The court-appointed examiner's written report shall  
6.11 be filed with the court and served on the prosecutor and defense counsel by the court. The  
6.12 report shall be filed no more than 30 days after the order for examination of a defendant in  
6.13 custody unless extended by the court for good cause. If the defendant is out of custody or  
6.14 confined in a noncorrectional program or treatment facility, the report shall be filed no more  
6.15 than 60 days after the order for examination, unless extended by the court for good cause.  
6.16 The report shall not include opinions concerning the defendant's mental condition at the  
6.17 time of the alleged offense or any statements made by the defendant regarding the alleged  
6.18 criminal conduct, unless necessary to support the examiner's opinion regarding competence  
6.19 or incompetence.

6.20 (b) The report shall include an evaluation of the defendant's mental health, cognition,  
6.21 and the factual basis for opinions about:

6.22 (1) any diagnoses made, and the results of any testing conducted with the defendant;

6.23 (2) the defendant's competency to stand trial;

6.24 (3) the level of care and education required for the defendant to attain, be restored to,  
6.25 or maintain competency;

6.26 (4) a recommendation of the least restrictive setting appropriate to meet the defendant's  
6.27 needs for restoration and immediate safety;

6.28 (5) the impact of any substance use disorder on the defendant, including the defendant's  
6.29 competency, and any recommendations for treatment;

6.30 (6) the likelihood the defendant will attain competency in the reasonably foreseeable  
6.31 future;

7.1 (7) whether the defendant poses a substantial likelihood of physical harm to self or  
7.2 others; and

7.3 (8) if the court examiner's opinion is that the defendant is incompetent to proceed, the  
7.4 report must include an opinion as to whether the defendant possesses capacity to make  
7.5 decisions regarding neuroleptic medication unless the examiner is unable to render an  
7.6 opinion on capacity. If the examiner is unable to render an opinion on capacity, the report  
7.7 must document the reasons why the examiner is unable to render that opinion.

7.8 (c) If the court examiner determines that the defendant presents an imminent risk of  
7.9 serious danger to another, is imminently suicidal, or otherwise needs emergency intervention,  
7.10 the examiner must promptly notify the court, prosecutor, defense counsel, and those  
7.11 responsible for the care and custody of the defendant.

7.12 (d) If the defendant appears for the examination but does not participate, the court  
7.13 examiner shall submit a report and, if sufficient information is available, may render an  
7.14 opinion on competency and an opinion as to whether the unwillingness to participate resulted  
7.15 from a mental illness, cognitive impairment, or other factors.

7.16 (e) If the court examiner determines the defendant would benefit from services for  
7.17 engagement in mental health treatment under section 253B.041 or any other referral to  
7.18 social services, the court examiner may recommend referral of the defendant to services  
7.19 where available.

7.20 Subd. 3. **Additional examination.** If either the prosecutor or defense counsel intends  
7.21 to retain an independent examiner, the party shall provide notice to the court and opposing  
7.22 counsel no later than ten days after the date of receipt of the court-appointed examiner's  
7.23 report. If an independent examiner is retained, the independent examiner's report shall be  
7.24 filed no more than 30 days after the date a party files notice of intent to retain an independent  
7.25 examiner, unless extended by the court for good cause.

7.26 Subd. 4. **Admissibility of defendant's statements.** When a defendant is examined under  
7.27 this section, any statement made by the defendant for the purpose of the examination and  
7.28 any evidence derived from the examination is admissible in the competency proceedings,  
7.29 but not in the criminal proceedings.

7.30 Sec. 5. **[611.44] CONTESTED HEARING PROCEDURES.**

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

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

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

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

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

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

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

8.22 **Sec. 6. [611.45] COMPETENCY FINDINGS.**

8.23 Subdivision 1. **Findings.** (a) The court must rule on the defendant's competency to stand  
8.24 trial no more than 14 days after the examiner's report is submitted to the court. If there is a  
8.25 contested hearing, the court must rule no more than 30 days after the date of the hearing.

8.26 (b) If the court finds the defendant competent, the court shall enter an order and the  
8.27 criminal proceedings shall resume.

8.28 (c) If the court finds the defendant incompetent, the court shall enter a written order and  
8.29 suspend the criminal proceedings. The matter shall proceed under section 611.46.

8.30 Subd. 2. **Appeal.** Appeals under this chapter are governed by Rules of Criminal  
8.31 Procedure, rule 28. A verbatim record shall be made in all competency proceedings.



9.1 Subd. 3. Dismissal of criminal charge. (a) If the court finds the defendant incompetent,  
9.2 and the charge is a misdemeanor other than a targeted misdemeanor, the charge must be  
9.3 dismissed.

9.4 (b) In targeted misdemeanor and gross misdemeanor cases, the charges must be dismissed  
9.5 30 days after the date of the finding of incompetence, unless the prosecutor, before the  
9.6 expiration of the 30-day period, files a written notice of intent to prosecute when the  
9.7 defendant regains competency. If a notice has been filed and the charge is a targeted  
9.8 misdemeanor, charges must be dismissed within one year after the finding of incompetency.  
9.9 If a notice has been filed and the charge is a gross misdemeanor, charges must be dismissed  
9.10 within two years after the finding of incompetency.

9.11 (c) In felony cases, except as provided in paragraph (d), the charges must be dismissed  
9.12 three years after the date of the finding of incompetency, unless the prosecutor, before the  
9.13 expiration of the three-year period, files a written notice of intent to prosecute when the  
9.14 defendant regains competency. If a notice has been filed, charges must be dismissed within  
9.15 five years after the finding of incompetency or ten years if the maximum sentence for the  
9.16 crime with which the defendant is charged is ten years or more.

9.17 (d) The requirement that felony charges be dismissed under paragraph (c) does not apply  
9.18 if:

9.19 (1) the court orders continuing supervision pursuant to section 611.49, subdivision 3;  
9.20 or

9.21 (2) the defendant is charged with a violation of sections 609.185 (murder in the first  
9.22 degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20  
9.23 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112  
9.24 (criminal vehicular homicide); 609.2114, subdivision 1 (criminal vehicular operation, death  
9.25 to an unborn child); 609.2661 (murder of an unborn child in the first degree); 609.2662  
9.26 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in  
9.27 the third degree); 609.2664 (manslaughter of an unborn child in the first degree); or 609.2665  
9.28 (manslaughter of an unborn child in the second degree); or a crime of violence as defined  
9.29 in section 624.712, subdivision 5, except for a violation of chapter 152.

9.30 **Sec. 7. [611.46] INCOMPETENT TO STAND TRIAL AND CONTINUING**  
9.31 **SUPERVISION.**

9.32 Subdivision 1. Order to competency restoration. (a) If the court finds the defendant  
9.33 incompetent and the charges have not been dismissed, the court shall order the defendant

10.1 to participate in a competency restoration program to restore the defendant's competence.  
10.2 The court may order participation in a competency restoration program provided outside  
10.3 of a jail, a jail-based competency restoration program, or an alternative program. The court  
10.4 must determine the least-restrictive program appropriate to meet the defendant's needs and  
10.5 public safety. In making this determination, the court must consult with the forensic navigator  
10.6 and consider any recommendations of the court examiner. The court shall not order a  
10.7 defendant to participate in a jail-based program or a state-operated treatment program if the  
10.8 highest criminal charge is a misdemeanor or targeted misdemeanor.

10.9 (b) The court may only order the defendant to participate in competency restoration at  
10.10 an inpatient or residential treatment program under this section if the head of the treatment  
10.11 program determines that admission to the program is clinically appropriate and consents to  
10.12 the defendant's admission. The court may only order the defendant to participate in  
10.13 competency restoration at a state-operated treatment facility under this section if the  
10.14 commissioner of human services or a designee determines that admission of the defendant  
10.15 is clinically appropriate and consents to the defendant's admission. The court may require  
10.16 a certified competency program that qualifies as a locked facility or a state-operated treatment  
10.17 program to notify the court in writing of the basis for refusing consent for admission of the  
10.18 defendant in order to ensure transparency and maintain an accurate record. The court may  
10.19 not require personal appearance of any representative of a certified competency program.  
10.20 The court shall send a written request for notification to the locked facility or state-operated  
10.21 treatment program and the locked facility or state-operated treatment program shall provide  
10.22 a written response to the court within ten days of receipt of the court's request.

10.23 (c) If the defendant is confined in jail and has not received competency restoration  
10.24 services within 30 days of the finding of incompetency, the court shall review the case with  
10.25 input from the prosecutor and defense counsel and may:

10.26 (1) order the defendant to participate in an appropriate competency restoration program  
10.27 that takes place outside of a jail;

10.28 (2) conditionally release the defendant, including but not limited to conditions that the  
10.29 defendant participate in a competency restoration program when one becomes available  
10.30 and accessible;

10.31 (3) make a determination as to whether the defendant is likely to attain competency in  
10.32 the reasonably foreseeable future and proceed under section 611.49; or

10.33 (4) upon a motion, dismiss the charges in the interest of justice

11.1 (d) Upon the order to a competency restoration program or alternative program, the court  
11.2 may order any hospital, treatment facility, or correctional facility that has provided care or  
11.3 supervision to the defendant in the previous two years to provide copies of the defendant's  
11.4 medical records to the competency restoration program or alternative program. This  
11.5 information shall be provided in a consistent and timely manner and pursuant to all applicable  
11.6 laws.

11.7 (e) If at any time the defendant refuses to participate in a competency restoration program  
11.8 or an alternative program, the head of the program shall notify the court and any entity  
11.9 responsible for supervision of the defendant.

11.10 (f) At any time, the head of the program may discharge the defendant from the program  
11.11 or facility. The head of the program must notify the court, prosecutor, defense counsel, and  
11.12 any entity responsible for the supervision of the defendant prior to any planned discharge.  
11.13 Absent emergency circumstances, this notification shall be made five days prior to the  
11.14 discharge if the defendant is not being discharged to jail or a correctional facility. Upon the  
11.15 receipt of notification of discharge or upon the request of either party in response to  
11.16 notification of discharge, the court may order that a defendant who is subject to bail or  
11.17 unmet conditions of release be returned to jail upon being discharged from the program or  
11.18 facility. If the court orders a defendant returned to jail, the court shall notify the parties and  
11.19 head of the program at least one day before the defendant's planned discharge, except in  
11.20 the event of an emergency discharge where one day notice is not possible. The court must  
11.21 hold a review hearing within seven days of the defendant's return to jail. The forensic  
11.22 navigator must be given notice of the hearing and be allowed to participate.

11.23 (g) If the defendant is discharged from the program or facility under emergency  
11.24 circumstances, notification of emergency discharge shall include a description of the  
11.25 emergency circumstances and may include a request for emergency transportation. The  
11.26 court shall make a determination on a request for emergency transportation within 24 hours.  
11.27 Nothing in this section prohibits a law enforcement agency from transporting a defendant  
11.28 pursuant to any other authority.

11.29 Subd. 2. **Supervision.** (a) Upon a finding of incompetency, if the defendant is entitled  
11.30 to release, the court must determine whether the defendant requires pretrial supervision.  
11.31 The court must weigh public safety risks against the defendant's interests in remaining free  
11.32 from supervision while presumed innocent in the criminal proceedings. The court may use  
11.33 a validated and equitable risk assessment tool to determine whether supervision is necessary.

12.1 (b) If the court determines that the defendant requires pretrial supervision, the court shall  
12.2 direct the forensic navigator to conduct pretrial supervision and report violations to the  
12.3 court. The forensic navigator shall be responsible for the supervision of the defendant until  
12.4 ordered otherwise by the court.

12.5 (c) Upon application by the prosecutor, the entity or its designee assigned to supervise  
12.6 the defendant, or court services alleging that the defendant violated a condition of release  
12.7 and is a risk to public safety, the court shall follow the procedures under Rules of Criminal  
12.8 Procedure, rule 6. Any hearing on the alleged violation of release conditions shall be held  
12.9 no more than 15 days after the date of issuance of a summons or within 72 hours if the  
12.10 defendant is apprehended on a warrant.

12.11 (d) If the court finds a violation, the court may revise the conditions of release and bail  
12.12 as appropriate pursuant to the Rules of Criminal Procedure, including but not limited to  
12.13 consideration of the defendant's need for ongoing access to a competency restoration program  
12.14 or alternative program under this section.

12.15 (e) The court must review conditions of release and bail on request of any party and may  
12.16 amend the conditions of release or make any other reasonable order upon receipt of  
12.17 information that the pretrial detention of a defendant has interfered with the defendant  
12.18 attaining competency.

12.19 Subd. 3. **Certified competency restoration programs; procedure.** (a) If the court  
12.20 orders a defendant to participate in a competency restoration program that takes place outside  
12.21 of a jail, or an alternative program that the court has determined is providing appropriate  
12.22 competency restoration services to the defendant, the court shall specify whether the program  
12.23 is a community-based treatment program or provided in a locked treatment facility.

12.24 (b) If the court finds that the defendant continues to be incompetent at a review hearing  
12.25 held after the initial determination of competency, the court must hold a review hearing  
12.26 pursuant to section 611.49 and consider any changes to the defendant's conditions of release  
12.27 or competency restoration programming to restore the defendant's competency in the least  
12.28 restrictive program appropriate.

12.29 (c) If the court orders the defendant to a locked treatment facility or jail-based program,  
12.30 the court must calculate the defendant's custody credit and cannot order the defendant to a  
12.31 locked treatment facility or jail-based program for a period that would cause the defendant's  
12.32 custody credit to exceed the maximum sentence for the underlying charge.

13.1 Subd. 4. Jail-based competency restoration programs; procedure. (a) A defendant  
13.2 is eligible to participate in a jail-based competency restoration program when the underlying  
13.3 charge is a gross misdemeanor or felony and either:

13.4 (1) the defendant has been found incompetent, the defendant has not met the conditions  
13.5 of release ordered pursuant to rule 6.02 of the Rules of Criminal Procedure, including posting  
13.6 bail, and either a court-appointed examiner has recommended jail-based competency  
13.7 restoration as the least restrictive setting to meet the person's needs, or the court finds that  
13.8 after a reasonable effort by the forensic navigator, there has not been consent by another  
13.9 secure setting to the defendant's placement; or

13.10 (2) the defendant is in custody and is ordered to a certified competency restoration  
13.11 program that takes place outside of a jail, a jail-based competency restoration program is  
13.12 available within a reasonable distance to the county where the defendant is being held, and  
13.13 the court ordered a time-limited placement in a jail-based program until transfer to a certified  
13.14 competency restoration program that takes place outside of a jail.

13.15 (b) A defendant may not be ordered to participate in a jail-based competency restoration  
13.16 program for more than 90 days without a review hearing. If after 90 days of the order to a  
13.17 jail-based program the defendant has not attained competency, the court must review the  
13.18 case with input from the prosecutor and defense counsel and may:

13.19 (1) order the defendant to participate in an appropriate certified competency restoration  
13.20 program that takes place outside of a locked facility; or

13.21 (2) determine whether, after a reasonable effort by the forensic navigator, there is consent  
13.22 to the defendant's placement by another locked facility. If court determines that a locked  
13.23 facility is the least restrictive program appropriate and no appropriate locked facility is  
13.24 available, it may order the defendant to the jail-based program for an additional 90 days.

13.25 (c) Nothing in this section prohibits the court from ordering the defendant transferred  
13.26 to a certified competency restoration program that takes place outside of a jail if the court  
13.27 determines that transition is appropriate, or the defendant satisfies the conditions of release  
13.28 or bail. Before the defendant is transitioned to a certified competency restoration program  
13.29 that takes place outside of a jail or an alternative program, the court shall notify the prosecutor  
13.30 and the defense counsel, and the provisions of subdivision 2 shall apply.

13.31 (d) The court may require a certified competency program that qualifies as a locked  
13.32 facility to notify the court in writing of the basis for refusing consent of the defendant in  
13.33 order to ensure transparency and maintain an accurate record. The court may not require  
13.34 personal appearance of any representative of a certified competency program.

14.1 Subd. 5. **Alternative programs; procedure.** (a) A defendant is eligible to participate  
14.2 in an alternative program if the defendant has been found incompetent, the defendant is  
14.3 entitled to release, and a certified competency restoration program outside of a jail is not  
14.4 available.

14.5 (b) As soon as the forensic navigator has reason to believe that no certified competency  
14.6 restoration program outside of a jail will be available within a reasonable time, the forensic  
14.7 navigator shall determine if there are available alternative programs that are likely to assist  
14.8 the defendant in attaining competency. Upon notification by the forensic navigator, the  
14.9 court may order the defendant to participate in an appropriate alternative program and notify  
14.10 the prosecutor and the defense counsel.

14.11 (c) If at any time while the defendant is participating in an alternative program, an  
14.12 appropriate certified competency restoration program that takes place outside of a jail  
14.13 becomes available, the forensic navigator must notify the court. The court must notify the  
14.14 prosecutor and the defense counsel and must order the defendant to participate in an  
14.15 appropriate certified competency restoration program, unless the court determines that the  
14.16 defendant is receiving appropriate competency restoration services in the alternative program.  
14.17 If appropriate and in the public interest, the court may order the defendant to participate in  
14.18 the certified competency restoration program and an alternative program.

14.19 (d) At any time, the head of the alternative program or the forensic navigator may notify  
14.20 the court that the defendant is receiving appropriate competency restoration services in the  
14.21 alternative program, and recommend that remaining in the alternative program is in the best  
14.22 interest of the defendant and the defendant's progress in attaining competency. The court  
14.23 may order the defendant to continue programming in the alternative program and proceed  
14.24 under subdivision 3.

14.25 (e) If after 90 days of the order to an alternative program the defendant has not attained  
14.26 competency and the defendant is not participating in a certified competency restoration  
14.27 program, the court must hold a review hearing pursuant to section 611.49.

14.28 Subd. 6. **Reporting to the court.** (a) The court examiner must provide an updated report  
14.29 to the court at least once every six months, unless the court and the parties agree to a longer  
14.30 period that is not more than 12 months, as to the defendant's competency and a description  
14.31 of the efforts made to restore the defendant to competency.

14.32 (b) At any time, the head of the program may notify the court and recommend that a  
14.33 court examiner provide an updated competency examination and report.

15.1 (c) The court shall furnish copies of the report to the prosecutor, defense counsel, and  
15.2 the facility or program where the defendant is being served.

15.3 (d) The report may make recommendations for continued services to ensure continued  
15.4 competency. If the defendant is found guilty, these recommendations may be considered  
15.5 by the court in imposing a sentence, including any conditions of probation.

15.6 Subd. 7. **Contested hearings.** The prosecutor or defense counsel may request a hearing  
15.7 on the court examiner's competency opinion by filing written objections to the competency  
15.8 report no later than ten days after receiving the report. All parties are entitled to notice before  
15.9 the hearing. If the hearing is held, it shall conform with the procedures of section 611.44.

15.10 Subd. 8. **Competency determination.** (a) The court must determine whether the  
15.11 defendant is competent based on the updated report from the court examiner no more than  
15.12 14 days after receiving the report.

15.13 (b) If the court finds the defendant competent, the court must enter an order and the  
15.14 criminal proceedings shall resume.

15.15 (c) If the court finds the defendant incompetent, the court may order the defendant to  
15.16 continue participating in a program as provided in this section.

15.17 (d) Counsel for the defendant may bring a motion to dismiss the proceedings in the  
15.18 interest of justice at any stage of the proceedings.

15.19 Sec. 8. **[611.47] ADMINISTRATION OF MEDICATION.**

15.20 Subdivision 1. **Motion.** When a court finds that a defendant is incompetent or any time  
15.21 thereafter, upon the motion of the prosecutor or treating medical provider, the court shall  
15.22 hear and determine whether the defendant lacks capacity to make decisions regarding the  
15.23 administration of neuroleptic medication.

15.24 Subd. 2. **Certification report.** (a) If the defendant's treating medical practitioner is of  
15.25 the opinion that the defendant lacks capacity to make decisions regarding neuroleptic  
15.26 medication, the treating medical practitioner shall certify in a report that the lack of capacity  
15.27 exists and which conditions under subdivision 3 are applicable. The certification report shall  
15.28 contain an assessment of the current mental status of the defendant and the opinion of the  
15.29 treating medical practitioner that involuntary neuroleptic medication has become medically  
15.30 necessary and appropriate under subdivision 3, paragraph (b), clause (1) or (2), or in the  
15.31 patient's best medical interest under subdivision 3, paragraph (b), clause (3). The certification  
15.32 report shall be filed with the court when a motion for a hearing is made under this section.

16.1 (b) A certification report made pursuant to this section shall include a description of the  
16.2 neuroleptic medication proposed to be administered to the defendant and its likely effects  
16.3 and side effects, including effects on the defendant's condition or behavior that would affect  
16.4 the defendant's ability to understand the nature of the criminal proceedings or to assist  
16.5 counsel in the conduct of a defense in a reasonable manner.

16.6 (c) Any defendant subject to an order under subdivision 3 of this section or the state  
16.7 may request review of that order.

16.8 (d) The court may appoint a court examiner to examine the defendant and report to the  
16.9 court and parties as to whether the defendant lacks capacity to make decisions regarding  
16.10 the administration of neuroleptic medication. If the patient refuses to participate in an  
16.11 examination, the court examiner may rely on the patient's clinically relevant medical records  
16.12 in reaching an opinion.

16.13 (e) The defendant is entitled to a second court examiner under this section, if requested  
16.14 by the defendant.

16.15 Subd. 3. **Determination.** (a) The court shall consider opinions in the reports prepared  
16.16 under subdivision 2 as applicable to the issue of whether the defendant lacks capacity to  
16.17 make decisions regarding the administration of neuroleptic medication and shall proceed  
16.18 under paragraph (b).

16.19 (b) The court shall hear and determine whether any of the following is true:

16.20 (1) the defendant lacks capacity to make decisions regarding neuroleptic medication, as  
16.21 defined in section 253B.092, subdivision 5, the defendant's mental illness requires medical  
16.22 treatment with neuroleptic medication, and, if the defendant's mental illness is not treated  
16.23 with neuroleptic medication, it is probable that serious harm to the physical or mental health  
16.24 of the patient will result. Probability of serious harm to the physical or mental health of the  
16.25 defendant requires evidence that the defendant is presently suffering adverse effects to the  
16.26 defendant's physical or mental health, or the defendant has previously suffered these effects  
16.27 as a result of a mental illness and the defendant's condition is substantially deteriorating or  
16.28 likely to deteriorate without administration of neuroleptic medication. The fact that a  
16.29 defendant has a diagnosis of a mental illness does not alone establish probability of serious  
16.30 harm to the physical or mental health of the defendant;

16.31 (2) the defendant lacks capacity to make decisions regarding neuroleptic medication, as  
16.32 defined in section 253B.092, subdivision 5, neuroleptic medication is medically necessary,  
16.33 and the defendant is a danger to others, in that the defendant has inflicted, attempted to  
16.34 inflict, or made a serious threat of inflicting substantial bodily harm on another while in



17.1 custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of  
17.2 inflicting substantial bodily harm on another that resulted in being taken into custody, and  
17.3 the defendant presents, as a result of mental illness or cognitive impairment, a demonstrated  
17.4 danger of inflicting substantial bodily harm on others. Demonstrated danger may be based  
17.5 on an assessment of the defendant's present mental condition, including a consideration of  
17.6 past behavior of the defendant and other relevant information; or

17.7 (3) the defendant lacks capacity to make decisions regarding neuroleptic medication, as  
17.8 defined in section 253B.092, subdivision 5, and the state has shown by clear and convincing  
17.9 evidence that:

17.10 (i) the state has charged the defendant with a serious crime against the person or property;

17.11 (ii) involuntary administration of neuroleptic medication is substantially likely to render  
17.12 the defendant competent to stand trial;

17.13 (iii) the medication is unlikely to have side effects that interfere with the defendant's  
17.14 ability to understand the nature of the criminal proceedings or to assist counsel in the conduct  
17.15 of a defense in a reasonable manner;

17.16 (iv) less intrusive treatments are unlikely to have substantially the same results and  
17.17 involuntary medication is necessary; and

17.18 (v) neuroleptic medication is in the patient's best medical interest in light of his or her  
17.19 medical condition.

17.20 (c) In ruling on a petition under this section, the court shall also take into consideration  
17.21 any evidence on:

17.22 (1) what the patient would choose to do in the situation if the patient had capacity,  
17.23 including evidence such as a durable power of attorney for health care under chapter 145C;

17.24 (2) the defendant's family, community, moral, religious, and social values;

17.25 (3) the medical risks, benefits, and alternatives to the proposed treatment;

17.26 (4) past efficacy and any extenuating circumstances of past use of neuroleptic  
17.27 medications; and

17.28 (5) any other relevant factors.

17.29 (d) In determining whether the defendant possesses capacity to consent to neuroleptic  
17.30 medications, the court:

18.1 (1) must apply a rebuttable presumption that a defendant has the capacity to make  
18.2 decisions regarding administration of neuroleptic medication;

18.3 (2) must find that a defendant has the capacity to make decisions regarding the  
18.4 administration of neuroleptic medication if the defendant:

18.5 (i) has an awareness of the nature of the defendant's situation and the possible  
18.6 consequences of refusing treatment with neuroleptic medications;

18.7 (ii) has an understanding of treatment with neuroleptic medications and the risks, benefits,  
18.8 and alternatives; and

18.9 (iii) communicates verbally or nonverbally a clear choice regarding treatment with  
18.10 neuroleptic medications that is a reasoned one not based on a symptom of the defendant's  
18.11 mental illness, even though it may not be in the defendant's best interests; and

18.12 (3) must not conclude that a defendant's decision is unreasonable based solely on a  
18.13 disagreement with the medical practitioner's recommendation.

18.14 (e) If consideration of the evidence presented on the factors in paragraph (c) weighs in  
18.15 favor of authorizing involuntary administration of neuroleptic medication, and the court  
18.16 finds any of the conditions described in paragraph (b) to be true, the court shall issue an  
18.17 order authorizing involuntary administration of neuroleptic medication to the defendant  
18.18 when and as prescribed by the defendant's medical practitioner, including administration  
18.19 by a treatment facility or correctional facility. The court order shall specify which medications  
18.20 are authorized and may limit the maximum dosage of neuroleptic medication that may be  
18.21 administered. The order shall be valid for no more than one year. An order may be renewed  
18.22 by filing another petition under this section and following the process in this section. The  
18.23 order shall terminate no later than the closure of the criminal case in which it is issued. The  
18.24 court shall not order involuntary administration of neuroleptic medication under paragraph  
18.25 (b), clause (3), unless the court has first found that the defendant does not meet the criteria  
18.26 for involuntary administration of neuroleptic medication under paragraph (b), clause (1),  
18.27 and does not meet the criteria under paragraph (b), clause (2).

18.28 (f) A copy of the order must be given to the defendant, the defendant's attorney, the  
18.29 county attorney, and the treatment facility or correctional facility where the defendant is  
18.30 being served. The treatment facility, correctional facility, or treating medical practitioner  
18.31 may not begin administration of the neuroleptic medication until it notifies the patient of  
18.32 the court's order authorizing the treatment.

19.1 Subd. 4. **Emergency administration.** A treating medical practitioner may administer  
19.2 neuroleptic medication to a defendant who does not have capacity to make a decision  
19.3 regarding administration of the medication if the defendant is in an emergency situation.  
19.4 Medication may be administered for so long as the emergency continues to exist, up to 14  
19.5 days, if the treating medical practitioner determines that the medication is necessary to  
19.6 prevent serious, immediate physical harm to the patient or to others. If a request for  
19.7 authorization to administer medication is made to the court within the 14 days, the treating  
19.8 medical practitioner may continue the medication through the date of the first court hearing,  
19.9 if the emergency continues to exist. The treating medical practitioner shall document the  
19.10 emergency in the defendant's medical record in specific behavioral terms.

19.11 Subd. 5. **Administration without judicial review.** Neuroleptic medications may be  
19.12 administered without judicial review under this subdivision if:

19.13 (1) the defendant has been prescribed neuroleptic medication prior to admission to a  
19.14 facility or program, but lacks the present capacity to consent to the administration of that  
19.15 neuroleptic medication; continued administration of the medication is in the patient's best  
19.16 interest; and the defendant does not refuse administration of the medication. In this situation,  
19.17 the previously prescribed neuroleptic medication may be continued for up to 14 days while  
19.18 the treating medical practitioner is requesting a court order authorizing administering  
19.19 neuroleptic medication or an amendment to a current court order authorizing administration  
19.20 of neuroleptic medication. If the treating medical practitioner requests a court order under  
19.21 this section within 14 days, the treating medical practitioner may continue administering  
19.22 the medication to the patient through the hearing date or until the court otherwise issues an  
19.23 order; or

19.24 (2) the defendant does not have the present capacity to consent to the administration of  
19.25 neuroleptic medication, but prepared a health care power of attorney or a health care directive  
19.26 under chapter 145C requesting treatment or authorizing an agent or proxy to request  
19.27 treatment, and the agent or proxy has requested the treatment.

19.28 Subd. 6. **Defendants with capacity to make informed decision.** If the court finds that  
19.29 the defendant has the capacity to decide whether to take neuroleptic medication, a facility  
19.30 or program may not administer medication without the patient's informed written consent  
19.31 or without the declaration of an emergency, or until further review by the court.

19.32 Subd. 7. **Procedure when patient defendant refuses medication.** If physical force is  
19.33 required to administer the neuroleptic medication, the facility or program may only use  
19.34 injectable medications. If physical force is needed to administer the medication, medication

20.1 may only be administered in a setting where the person's condition can be reassessed and  
20.2 medical personnel qualified to administer medication are available, including in the  
20.3 community or a correctional facility. The facility or program may not use a nasogastric tube  
20.4 to administer neuroleptic medication involuntarily.

20.5 Sec. 9. **[611.48] REVIEW HEARINGS.**

20.6 The prosecutor or defense counsel may apply to the court for a hearing to review the  
20.7 defendant's competency restoration programming. All parties are entitled to notice before  
20.8 the hearing. The hearing shall be held no later than 30 days after the date of the request,  
20.9 unless extended upon agreement of the prosecutor and defense counsel or by the court for  
20.10 good cause.

20.11 Sec. 10. **[611.49] LIKELIHOOD TO ATTAIN COMPETENCY.**

20.12 Subdivision 1. **Applicability.** (a) The court may hold a hearing on its own initiative or  
20.13 upon request of either party to determine whether the defendant is likely to attain competency  
20.14 in the foreseeable future when the most recent court examiner's report states that the defendant  
20.15 is unlikely to attain competency in the foreseeable future, and either:

20.16 (1) defendant has not been restored to competence after participating and cooperating  
20.17 with court ordered competency restoration programming for at least one year; or

20.18 (2) the defendant has not received timely competency restoration services under section  
20.19 611.46 after one year.

20.20 (b) The court cannot find a defendant unlikely to attain competency based upon a  
20.21 defendant's refusal to cooperate with or remain at a certified competency program or  
20.22 cooperate with an examination.

20.23 (c) The parties are entitled to 30 days of notice prior to the hearing and, unless the parties  
20.24 agree to a longer time period, the court must determine within 30 days after the hearing  
20.25 whether there is a substantial probability that the defendant will attain competency within  
20.26 the foreseeable future.

20.27 Subd. 2. **Procedure.** (a) If the court finds that there is a substantial probability that the  
20.28 defendant will attain competency within the reasonably foreseeable future, the court shall  
20.29 find the defendant incompetent and proceed under section 611.46.

20.30 (b) If the court finds that there is not a substantial probability the defendant will attain  
20.31 competency within the reasonably foreseeable future, the court may not order the defendant  
20.32 to participate in or continue to participate in a competency restoration program in a locked

21.1 treatment facility. The court must release the defendant from any custody holds pertaining  
21.2 to the underlying criminal case and require the forensic navigator to develop a bridge plan.

21.3 (c) If the court finds that there is not a substantial probability the defendant will attain  
21.4 competency within the foreseeable future, the court may issue an order to the designated  
21.5 agency in the county of financial responsibility or the county where the defendant is present  
21.6 to conduct a prepetition screening pursuant to section 253B.07.

21.7 (d) If a hearing is held under this subdivision and the criteria pursuant to subdivision 1,  
21.8 paragraphs (a) and (b) are satisfied, a party attempting to demonstrate that there is a  
21.9 substantial probability that the defendant will attain competency within the foreseeable  
21.10 future must prove by a preponderance of the evidence.

21.11 (e) If the court finds that there is not a substantial probability that the defendant will  
21.12 attain competency within the foreseeable future, the court must dismiss the case unless:

21.13 (1) the person is charged with a violation of section 609.185 (murder in the first degree);  
21.14 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20  
21.15 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112  
21.16 (criminal vehicular homicide); 609.2114, subdivision 1 (criminal vehicular operation, death  
21.17 to an unborn child); 609.2661 (murder of an unborn child in the first degree); 609.2662  
21.18 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in  
21.19 the third degree); 609.2664 (manslaughter of an unborn child in the first degree); or 609.2665  
21.20 (manslaughter of an unborn child in the second degree); or a crime of violence as defined  
21.21 in section 624.712, subdivision 5, except for a violation of chapter 152; or

21.22 (2) there is a showing of a danger to public safety if the matter is dismissed.

21.23 (f) If the court does not dismiss the charges, the court must order continued supervision  
21.24 under subdivision 3.

21.25 Subd. 3. **Continued supervision.** (a) If the court orders the continued supervision of a  
21.26 defendant, any party may request a hearing on the issue of continued supervision by filing  
21.27 a notice no more than ten days after the order for continued supervision.

21.28 (b) When continued supervision is ordered, the court must identify the supervisory  
21.29 agency responsible for the supervision of the defendant, including, but not limited to,  
21.30 directing a forensic navigator as the responsible entity.

21.31 (c) Notwithstanding the reporting requirements of section 611.46, subdivision 5, the  
21.32 court examiner must provide an updated report to the court one year after the initial order  
21.33 for continued supervision as to the defendant's competency and a description of the efforts

22.1 made to restore the defendant to competency. The court shall hold a review hearing within  
22.2 30 days of receipt of the report.

22.3 (d) If continued supervision is ordered at the review hearing under paragraph (c), the  
22.4 court must set a date for a review hearing no later than two years after the most recent order  
22.5 for continuing supervision. The court must order review of the defendant's status, including  
22.6 an updated competency examination and report by the court examiner. The court examiner  
22.7 must submit the updated report to the court. At the review hearing, the court must determine  
22.8 if the defendant has attained competency, whether there is a substantial probability that the  
22.9 defendant will attain competency within the foreseeable future, and whether the absence of  
22.10 continuing supervision of the defendant is a danger to public safety. Notwithstanding  
22.11 subdivision 2, paragraph (e), the court may hear any motions to dismiss pursuant to the  
22.12 interest of justice at the review hearing.

22.13 (e) The court may not order continued supervision for more than ten years unless the  
22.14 defendant is charged with a violation of section 609.185 (murder in the first degree); 609.19  
22.15 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter  
22.16 in the first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal  
22.17 vehicular homicide); 609.2114, subdivision 1 (criminal vehicular operation, death to an  
22.18 unborn child); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder  
22.19 of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third  
22.20 degree); 609.2664 (manslaughter of an unborn child in the first degree); or 609.2665  
22.21 (manslaughter of an unborn child in the second degree); or a crime of violence as defined  
22.22 in section 624.712, subdivision 5, except for a violation of chapter 152.

22.23 (f) At any time, the head of the program may discharge the defendant from the program  
22.24 or facility. The head of the program must notify the court, prosecutor, defense counsel,  
22.25 forensic navigator, and any entity responsible for the supervision of the defendant prior to  
22.26 any planned discharge. Absent emergency circumstances, this notification shall be made  
22.27 five days prior to the discharge. If the defendant is discharged from the program or facility  
22.28 under emergency circumstances, notification of emergency discharge shall include a  
22.29 description of the emergency circumstances and may include a request for emergency  
22.30 transportation. The court shall make a determination on a request for emergency  
22.31 transportation within 24 hours. Nothing in this section prohibits a law enforcement agency  
22.32 from transporting a defendant pursuant to any other authority.

22.33 (g) The court may provide, partner, or contract for pretrial supervision services or  
22.34 continued supervision if the defendant is found incompetent and unlikely to attain competency  
22.35 in the foreseeable future.



24.1 Subd. 2. **Availability of forensic navigator services.** The board must provide or contract  
24.2 for enough forensic navigator services to meet the needs of adult defendants in each judicial  
24.3 district who are found incompetent to proceed.

24.4 Subd. 3. **Duties.** (a) Forensic navigators shall be impartial in all legal matters relating  
24.5 to the criminal case. Nothing shall be construed to permit the forensic navigator to provide  
24.6 legal counsel as a representative of the court, prosecutor, or defense counsel. Forensic  
24.7 navigators shall be required to report compliance and noncompliance with pretrial supervision  
24.8 and any orders of the court.

24.9 (b) Forensic navigators shall provide services to assist defendants with mental illnesses  
24.10 and cognitive impairments. Services may include, but are not limited to:

24.11 (1) developing bridge plans;

24.12 (2) assisting defendants in participating in court-ordered examinations and hearings;

24.13 (3) coordinating timely placement in court-ordered competency restoration programs;

24.14 (4) providing competency restoration education;

24.15 (5) reporting to the court on the progress of defendants found incompetent to stand trial;

24.16 (6) providing coordinating services to help defendants access needed mental health,  
24.17 medical, housing, financial, social, transportation, precharge and pretrial diversion, and  
24.18 other necessary services provided by other programs and community service providers;

24.19 (7) communicating with and offering supportive resources to defendants and family  
24.20 members of defendants; and

24.21 (8) providing consultation and education to court officials on emerging issues and  
24.22 innovations in serving defendants with mental illnesses in the court system.

24.23 (c) If a defendant's charges are dismissed, the appointed forensic navigator may continue  
24.24 assertive outreach with the individual for up to 90 days to assist in attaining stability in the  
24.25 community.

24.26 Subd. 4. **Bridge plans.** (a) The forensic navigator must prepare bridge plans with the  
24.27 defendant and submit them to the court. Bridge plans must be submitted before the time the  
24.28 court makes a competency finding pursuant to section 611.45. The bridge plan must include:

24.29 (1) a confirmed housing address the defendant will use upon release, including but not  
24.30 limited to emergency shelters;



25.1 (2) if possible, the dates, times, locations, and contact information for any appointments  
25.2 made to further coordinate support and assistance for the defendant in the community,  
25.3 including but not limited to mental health and substance use disorder treatment, or a list of  
25.4 referrals to services; and

25.5 (3) any other referrals, resources, or recommendations the forensic navigator or court  
25.6 deems necessary.

25.7 (b) Bridge plans and any supporting records or other data submitted with those plans  
25.8 are not accessible to the public.

25.9 **Sec. 2. [611.56] STATE COMPETENCY RESTORATION BOARD.**

25.10 Subdivision 1. **Establishment; membership.** (a) The State Competency Restoration  
25.11 Board is established in the judicial branch. The board is not subject to the administrative  
25.12 control of the judiciary. The board shall consist of seven members, including:

25.13 (1) three members appointed by the supreme court, at least one of whom must be a  
25.14 defense attorney, one a county attorney, and one public member; and

25.15 (2) four members appointed by the governor, at least one of whom must be a mental  
25.16 health professional with experience in competency restoration.

25.17 (b) The appointing authorities may not appoint an active judge to be a member of the  
25.18 board, but may appoint a retired judge.

25.19 (c) All members must demonstrate an interest in maintaining a high quality, independent  
25.20 forensic navigator program and a thorough process for certification of competency restoration  
25.21 programs. Members shall be familiar with the Minnesota Rules of Criminal Procedure,  
25.22 particularly rule 20; chapter 253B; and sections 611.40 to 611.59. Following the initial  
25.23 terms of appointment, at least one member appointed by the supreme court must have  
25.24 previous experience working as a forensic navigator. At least three members of the board  
25.25 shall live outside the First, Second, Fourth, and Tenth Judicial Districts. The terms,  
25.26 compensation, and removal of members shall be as provided in section 15.0575. The members  
25.27 shall elect the chair from among the membership for a term of two years.

25.28 Subd. 2. **Duties and responsibilities.** (a) The board shall create and administer a  
25.29 statewide, independent competency restoration system that certifies competency restoration  
25.30 programs and uses forensic navigators to promote prevention and diversion of people with  
25.31 mental illnesses and cognitive impairments from entering the legal system, support defendants  
25.32 with mental illness and cognitive impairments, support defendants in the competency process,  
25.33 and assist courts and partners in coordinating competency restoration services.

26.1 (b) The board shall:

26.2 (1) approve and recommend to the legislature a budget for the board and the forensic  
26.3 navigator program;

26.4 (2) establish procedures for distribution of funding under this section to the forensic  
26.5 navigator program;

26.6 (3) establish forensic navigator standards, administrative policies, procedures, and rules  
26.7 consistent with statute, rules of court, and laws that affect a forensic navigator's work;

26.8 (4) establish certification requirements for competency restoration programs; and

26.9 (5) carry out the programs under sections 611.57, 611.58, and 611.59.

26.10 (c) The board may:

26.11 (1) adopt standards, policies, or procedures necessary to ensure quality assistance for  
26.12 defendants found incompetent to stand trial and charged with a felony, gross misdemeanor,  
26.13 or targeted misdemeanor, or for defendants found incompetent to stand trial who have  
26.14 recurring incidents;

26.15 (2) establish district forensic navigator offices as provided in subdivision 4; and

26.16 (3) propose statutory changes to the legislature and rule changes to the supreme court  
26.17 that would facilitate the effective operation of the forensic navigator program.

26.18 Subd. 3. **Administrator.** The board shall appoint a program administrator who serves  
26.19 at the pleasure of the board. The program administrator shall attend all meetings of the board  
26.20 and the Certification Advisory Committee, but may not vote, and shall:

26.21 (1) carry out all administrative functions necessary for the efficient and effective operation  
26.22 of the board and the program, including but not limited to hiring, supervising, and disciplining  
26.23 program staff and forensic navigators;

26.24 (2) implement, as necessary, resolutions, standards, rules, regulations, and policies of  
26.25 the board;

26.26 (3) keep the board fully advised as to its financial condition, and prepare and submit to  
26.27 the board the annual program and budget and other financial information as requested by  
26.28 the board;

26.29 (4) recommend to the board the adoption of rules and regulations necessary for the  
26.30 efficient operation of the board and the program; and

26.31 (5) perform other duties prescribed by the board.

27.1 Subd. 4. **District offices.** The board may establish district forensic navigator offices in  
27.2 counties, judicial districts, or other areas where the number of defendants receiving  
27.3 competency restoration services requires more than one full-time forensic navigator and  
27.4 establishment of an office is fiscally responsible and in the best interest of defendants found  
27.5 to be incompetent.

27.6 Subd. 5. **Administration.** The board may contract with the Office of State Court  
27.7 Administrator for administrative support services for the fiscal years following fiscal year  
27.8 2022.

27.9 Subd. 6. **Fees and costs; civil actions on contested case.** Sections 15.039 and 15.471  
27.10 to 15.474 apply to the State Competency Restoration Board.

27.11 Sec. 3. **[611.57] CERTIFICATION ADVISORY COMMITTEE.**

27.12 Subdivision 1. **Establishment.** The Certification Advisory Committee is established to  
27.13 provide the State Competency Restoration Board with advice and expertise related to the  
27.14 certification of competency restoration programs, including jail-based programs.

27.15 Subd. 2. **Membership.** (a) The Certification Advisory Committee consists of the  
27.16 following members:

27.17 (1) a mental health professional, as defined in section 245I.02, subdivision 27, with  
27.18 community behavioral health experience, appointed by the governor;

27.19 (2) a board-certified forensic psychiatrist with experience in competency evaluations,  
27.20 providing competency restoration services, or both, appointed by the governor;

27.21 (3) a board-certified forensic psychologist with experience in competency evaluations,  
27.22 providing competency restoration services, or both, appointed by the governor;

27.23 (4) the president of the Minnesota Corrections Association or a designee;

27.24 (5) the direct care and treatment deputy commissioner or a designee;

27.25 (6) the president of the Minnesota Association of County Social Service Administrators  
27.26 or a designee;

27.27 (7) the president of the Minnesota Association of Community Mental Health Providers  
27.28 or a designee;

27.29 (8) the president of the Minnesota Sheriffs' Association or a designee; and

27.30 (9) the executive director of the National Alliance on Mental Illness Minnesota or a  
27.31 designee.

28.1 (b) Members of the advisory committee serve without compensation and at the pleasure  
28.2 of the appointing authority. Vacancies shall be filled by the appointing authority consistent  
28.3 with the qualifications of the vacating member required by this subdivision.

28.4 Subd. 3. **Meetings.** At its first meeting, the advisory committee shall elect a chair and  
28.5 may elect a vice-chair. The advisory committee shall meet at least monthly or upon the call  
28.6 the chair. The advisory committee shall meet sufficiently enough to accomplish the tasks  
28.7 identified in this section.

28.8 Subd. 4. **Duties.** The Certification Advisory Committee shall consult with the Department  
28.9 of Human Services, the Department of Health, and the Department of Corrections; make  
28.10 recommendations to the State Competency Restoration Board regarding competency  
28.11 restoration curriculum, certification requirements for competency restoration programs  
28.12 including jail-based programs, and certification of individuals to provide competency  
28.13 restoration services; and provide information and recommendations on other issues relevant  
28.14 to competency restoration as requested by the board.

28.15 Sec. 4. **[611.58] COMPETENCY RESTORATION CURRICULUM AND**  
28.16 **CERTIFICATION.**

28.17 Subdivision 1. **Curriculum.** (a) By January 1, 2023, the board must recommend a  
28.18 competency restoration curriculum to educate and assist defendants found incompetent in  
28.19 attaining the ability to:

28.20 (1) rationally consult with counsel;

28.21 (2) understand the proceedings; and

28.22 (3) participate in the defense.

28.23 (b) The curriculum must be flexible enough to be delivered in community and correctional  
28.24 settings by individuals with various levels of education and qualifications, including but  
28.25 not limited to professionals in criminal justice, health care, mental health care, and social  
28.26 services. The board must review and update the curriculum as needed.

28.27 Subd. 2. **Certification and distribution.** By January 1, 2023, the board must develop  
28.28 a process for certifying individuals to deliver the competency restoration curriculum and  
28.29 make the curriculum available to every certified competency restoration program and forensic  
28.30 navigator in the state. Each competency restoration program in the state must use the  
28.31 competency restoration curriculum under this section as the foundation for delivering  
28.32 competency restoration education and must not substantially alter the content.

29.1 **Sec. 5. [611.59] COMPETENCY RESTORATION PROGRAMS.**

29.2 **Subdivision 1. Availability and certification.** The board must provide or contract for  
29.3 enough competency restoration services to meet the needs of adult defendants in each judicial  
29.4 district who are found incompetent to proceed and do not have access to competency  
29.5 restoration services as a part of any other programming in which they are ordered to  
29.6 participate. The board, in consultation with the Certification Advisory Committee, shall  
29.7 develop procedures to certify that the standards in this section are met, including procedures  
29.8 for regular recertification of competency restoration programs. The board shall maintain a  
29.9 list of certified competency restoration programs on the board's website to be updated at  
29.10 least once every year.

29.11 **Subd. 2. Competency restoration provider standards.** Except for jail-based programs,  
29.12 a competency restoration provider must:

29.13 (1) be able to provide the appropriate mental health or substance use disorder treatment  
29.14 ordered by the court, including but not limited to treatment in inpatient, residential, and  
29.15 home-based settings;

29.16 (2) ensure that competency restoration education certified by the board is provided to  
29.17 defendants and that regular assessments of defendants' progress in attaining competency  
29.18 are documented;

29.19 (3) designate a head of the program knowledgeable in the processes and requirements  
29.20 of the competency to stand trial procedures; and

29.21 (4) develop staff procedures or designate a person responsible to ensure timely  
29.22 communication with the court system.

29.23 **Subd. 3. Jail-based competency restoration standards.** Jail-based competency  
29.24 restoration programs must be housed in correctional facilities licensed by the Department  
29.25 of Corrections under section 241.021 and must:

29.26 (1) have a designated program director who meets minimum qualification standards set  
29.27 by the board, including understanding the requirements of competency to stand trial  
29.28 procedures;

29.29 (2) provide minimum mental health services including:

29.30 (i) multidisciplinary staff sufficient to monitor defendants and provide timely assessments,  
29.31 treatment, and referrals as needed, including at least one medical professional licensed to  
29.32 prescribe psychiatric medication;

30.1 (ii) prescribing, dispensing, and administering any medication deemed clinically  
30.2 appropriate by qualified medical professionals; and

30.3 (iii) policies and procedures for the administration of involuntary medication;

30.4 (3) ensure that competency restoration education certified by the board is provided to  
30.5 defendants and regular assessments of defendants' progress in attaining competency to stand  
30.6 trial are documented;

30.7 (4) develop staff procedures or designate a person responsible to ensure timely  
30.8 communication with the court system; and

30.9 (5) designate a space in the correctional facility for the program.

30.10 Subd. 2. **Program evaluations.** (a) The board shall collect the following data:

30.11 (1) the total number of competency examinations ordered in each judicial district  
30.12 separated by county;

30.13 (2) the age, race, and number of unique defendants and for whom at least one competency  
30.14 examination was ordered in each judicial district separated by county;

30.15 (3) the age, race, and number of unique defendants found incompetent at least once in  
30.16 each judicial district separated by county; and

30.17 (4) all available data on the level of charge and adjudication of cases with a defendant  
30.18 found incompetent and whether a forensic navigator was assigned to the case.

30.19 (b) By February 15 of each year, the board must report to the legislative committees and  
30.20 divisions with jurisdiction over human services, public safety, and the judiciary on the data  
30.21 collected under this subdivision and may include recommendations for statutory or funding  
30.22 changes related to competency restoration.

### 30.23 **ARTICLE 3**

#### 30.24 **CONFORMING CHANGES AND APPROPRIATIONS**

30.25 Section 1. Minnesota Statutes 2020, section 253B.07, subdivision 2a, is amended to read:

30.26 Subd. 2a. **Petition originating from criminal proceedings.** (a) If criminal charges are  
30.27 pending against a defendant, the court shall order simultaneous competency and civil  
30.28 commitment examinations in accordance with Minnesota Rules of Criminal Procedure, rule  
30.29 20.04, when the following conditions are met:

31.1 (1) the prosecutor or defense counsel doubts the defendant's competency and a motion  
31.2 is made challenging competency, or the court on its initiative raises the issue under section  
31.3 611.42 or Rules of Criminal Procedure, rule 20.01; and

31.4 (2) the prosecutor and defense counsel agree simultaneous examinations are appropriate.  
31.5 No additional examination under subdivision 3 is required in a subsequent civil commitment  
31.6 proceeding unless a second examination is requested by defense counsel appointed following  
31.7 the filing of any petition for commitment.

31.8 (b) Only a court examiner may conduct an assessment as described in section 611.43 or  
31.9 Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, and 20.02, subdivision  
31.10 2.

31.11 (c) Where a county is ordered to consider civil commitment following a determination  
31.12 of incompetency under section 611.45 or Minnesota Rules of Criminal Procedure, rule  
31.13 20.01, the county in which the criminal matter is pending is responsible to conduct prepetition  
31.14 screening and, if statutory conditions for commitment are satisfied, to file the commitment  
31.15 petition in that county. By agreement between county attorneys, prepetition screening and  
31.16 filing the petition may be handled in the county of financial responsibility or the county  
31.17 where the proposed patient is present.

31.18 (d) Following an acquittal of a person of a criminal charge under section 611.026, the  
31.19 petition shall be filed by the county attorney of the county in which the acquittal took place  
31.20 and the petition shall be filed with the court in which the acquittal took place, and that court  
31.21 shall be the committing court for purposes of this chapter. When a petition is filed pursuant  
31.22 to subdivision 2 with the court in which acquittal of a criminal charge took place, the court  
31.23 shall assign the judge before whom the acquittal took place to hear the commitment  
31.24 proceedings unless that judge is unavailable.

31.25 Sec. 2. Minnesota Statutes 2020, section 480.182, is amended to read:

31.26 **480.182 STATE ASSUMPTION OF CERTAIN COURT COSTS.**

31.27 Notwithstanding any law to the contrary, the state courts will pay for the following  
31.28 court-related programs and costs:

31.29 (1) court interpreter program costs, including the costs of hiring court interpreters;

31.30 (2) guardian ad litem program and personnel costs;

31.31 (3) examination costs, not including hospitalization or treatment costs, for mental  
31.32 commitments and related proceedings under chapter 253B;

- 32.1 (4) examination costs under chapter 611 or rule 20 of the Rules of Criminal Procedure;
- 32.2 (5) in forma pauperis costs;
- 32.3 (6) costs for transcripts mandated by statute, except in appeal cases and postconviction
- 32.4 cases handled by the Board of Public Defense;
- 32.5 (7) jury program costs; and
- 32.6 (8) witness fees and mileage fees specified in sections 253B.23, subdivision 1; 260B.152,
- 32.7 subdivision 2; 260B.331, subdivision 3, clause (1); 260C.152, subdivision 2; 260C.331,
- 32.8 subdivision 3, clause (1); 357.24; 357.32; and 627.02.

32.9 **Sec. 3. DEPARTMENT OF CORRECTIONS; APPROPRIATION.**

32.10 \$202,000 in fiscal year 2024 and \$202,000 in fiscal year 2025 are appropriated from the

32.11 general fund to the commissioner of corrections for correctional facilities inspectors.

32.12 **Sec. 4. DISTRICT COURTS; APPROPRIATION.**

32.13 \$5,042,290 in fiscal year 2024 and \$5,042,290 in fiscal year 2025 are appropriated from

32.14 the general fund to the district courts for costs associated with additional competency

32.15 examination costs.

32.16 **Sec. 5. STATE COMPETENCY RESTORATION BOARD; APPROPRIATION.**

32.17 \$11,350,000 in fiscal year 2024 and \$10,900,000 in fiscal year 2025 are appropriated

32.18 from the general fund to the State Competency Restoration Board for staffing and other

32.19 costs needed to establish and perform the duties of the State Competency Restoration Board."

32.20 Amend the title accordingly