

## S.F. No. 255 – Competency Attainment; technical changes

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### Overview and Summary

In the 2022 session, the Legislature established a statutory process for addressing situations where a person charged with a crime is found incompetent to proceed because the person lacks the ability to understand the criminal proceedings, the ability to consult with an attorney, or the ability to participate in the person’s defense. Most of the provisions that passed have not yet taken effect.

This bill makes technical changes to the provisions that passed in 2022 to add clarity and consistency to the statutory language. The phrase competency “restoration” has been replaced with competency “attainment” throughout the statutory language because some individuals found incompetent may not have had a prior period of competency, and therefore the term “attainment” is more accurate. Other changes include reorganizing certain sections, replacing undefined terms with defined terms, and removing duplicative language. The statutory language includes references to crimes of violence as defined in section 624.712, subdivision 5, and this bill removes duplicative references to crimes that are included in that statutory definition.

The bill also makes a blank appropriation in fiscal year 2023 to establish and operate the State Competency Attainment Board.

The bill is effective the day following final enactment.

### Background

MN Laws 2022, Chapter 99 established procedures related to competency to stand trial.

Under Rule 20.01 of the Minnesota Rules of Criminal Procedure, individuals who are charged with a crime are considered incompetent to stand trial if they cannot rationally consult with legal counsel, understand court proceedings, or participate in their own defense due to a mental illness or cognitive impairment. Defense attorneys, prosecutors, and judges who suspect that a defendant is

incompetent to proceed in a criminal case must file a motion under Rule 20.01 to request an evaluation of the defendant's mental state. If the court finds the defendant to be incompetent, any misdemeanor charges must be dismissed. In cases involving gross misdemeanors and felonies, the case must be paused to see if the person later becomes competent.

However, there is no formal procedure to restore the person to competency. Courts have limited power to hold or supervise a person who has been found to be incompetent. In addition, psychiatric inpatient capacity in Minnesota is limited. As a result, some individuals charged with a crime and found to be incompetent have been released without access to mental health or other social services and with little or no supervision.

Therefore, Chapter 99 codified in Minnesota Statutes, Chapter 611, many of the provisions of Rule 20.01, created a State Competency Restoration Board, established guidelines for continued supervision of individuals found to be incompetent, and created forensic navigators to work with defendants in the competency process and develop plans to connect defendants to appropriate services.

Chapter 99 did not appropriate any money in FY 2023 to enact these changes. However, it did make FY2024-25 planning estimate increases of \$32.7 million from the General Fund, as described below. These appropriations are all contained in the Governor's FY 2024-25 base budget.

**State Competency Attainment Board (as renamed by S.F. 255)**

\$11.4 million in FY 2024 and \$10.9 million in FY 2025 to create the State Competency Attainment Board and fund its operations, including providing or contracting for competency restoration services.

**District Courts**

\$5 million in FY 2024 and \$5 million in FY 2025 for costs associated with additional competency examinations.

**Department of Corrections**

\$202,000 in FY 2024 and \$202,000 in FY 2025 for correctional facilities inspectors to inspect and certify jail-based competency attainment programs.