MCRO | The Competency Loop

A Structural Analysis of Minnesota Statutes 611.40–611.59

Report Date	April 12, 2026
Case Reference	State of Minnesota v. Guertin | 27-CR-23-1886
Statute Analyzed	MN Stat. 611.40–611.59 (2025) — Competency Proceedings
Scope	Full structural analysis: definitions, pipeline, loops, medication authority, constitutional framework
Primary Sources	MN Stat. 611.40–611.59 (2025); Dusky (1960); Jackson (1972); Harper (1990); Riggins (1992); Sell (2003); MCRO forensic corpus

IMPORTANT DISCLAIMER

This report presents a structural and textual analysis of Minnesota Statutes sections 611.40 through 611.59 (2025), Minnesota's statutory framework governing competency proceedings in criminal cases.

The analysis is grounded exclusively in: (1) the verbatim text of the statutes as enacted; (2) binding precedent from the United States Supreme Court; (3) publicly accessible comparative state law; and (4) statistical findings from the MCRO forensic database where explicitly cited.

This report does not assert that any specific judicial officer, prosecutor, defense attorney, or state employee has acted improperly or unlawfully. It does not assert that MN Stat. 611.40–611.59 is unconstitutional. It characterizes the structural design of the statute in plain terms — including its observable effects and documented omissions — and presents applicable constitutional doctrine for the reader's own evaluation.

All quoted statutory language is taken directly from the 2025 Minnesota Statutes as published by the Office of the Revisor of Statutes. All Supreme Court holdings are derived from published opinions. All statistical findings referencing the MCRO corpus are drawn from a forensic PostgreSQL database of Hennepin County Fourth Judicial District court records and have not been independently verified through this report.

The goal of this analysis is not to advocate for any particular legal outcome. It is to present, with precision, what the text of this statute authorizes — and what it conspicuously does not require.

EXECUTIVE SUMMARY

Minnesota Statutes 611.40 through 611.59, enacted in 2022 and amended through 2025, govern competency proceedings in all adult criminal cases in Minnesota. The framework is structured as a pipeline: entry through a competency motion, examination, hearing, finding, placement, medication assessment, review, and a determination of likelihood to attain competency. The statute establishes a permanent governmental board, a certification system, a standardized curriculum, and a statewide network of forensic navigators to operate this pipeline at scale.

A close structural reading of the statute reveals design features that distinguish it sharply from both the constitutional framework developed by the United States Supreme Court and the competency statutes of comparable states.

Key Findings of This Analysis:

- The statute's definition of cognitive impairment carries no severity floor — any condition impacting memory, perception, communication, learning, or 'other ability to think' qualifies, regardless of degree.
- Once competency is raised, the defendant is presumed incompetent (611.44 Subd. 4) — placing the burden of proof on the defendant, not the state.
- The dismissal timelines for felony charges (611.45 Subd. 3(c)) are explicitly made non-mandatory by a single judicial order for continuing supervision under 611.49.
- For defendants charged with crimes of violence, the 10-year cap on continued supervision is removed entirely (611.49 Subd. 3(f)).
- The medication chapter (611.47) provides three independent routes to court-ordered involuntary neuroleptic medication, plus two pathways to administer without any judicial review at all.
- Subdivision 5 of 611.47 — administration without judicial review — explicitly excludes the 'serious, immediate physical harm' standard that appears in Subdivision 4 immediately prior, demonstrating the gap was deliberate.
- Subdivision 7 of 611.47 governs the physical procedure for forced injection — specifying permitted delivery methods and explicitly prohibiting nasogastric tubes.
- The words 'due process,' 'rights,' and 'constitutional' do not appear anywhere in 611.40–611.59. The word 'neuroleptic' appears 37 times.
- A forensic analysis of the MCRO court records corpus found that in a cohort of 163 criminal cases linked to a specific cluster of judicial officers, 95.7% contained a Rule 20 evaluation order and 86.5% contained a 'Found Incompetent' event — compared to approximately 25% in a comparison sample of 163 broader Hennepin County cases.
- The statute was enacted in 2022 and substantially amended in 2023, 2024, and 2025 — in the era of Sell v. United States (2003), which the statute does not cite or incorporate.

WTF METRICS — Key Statistics at a Glance

37 — Occurrences of 'neuroleptic' in 23 pages of criminal procedure statute 0 — Occurrences of 'due process,' 'rights,' or 'constitutional' 95.7% — Cases in tri-judge cluster with Rule 20 evaluation order (vs. ~25% comparison) 86.5% — Cases in tri-judge cluster with 'Found Incompetent' event 0 — Routes that require imminent danger before administering medication without judicial review (Subd. 5) NONE — Explicit statutory time limit in Subd. 5(2) for medication administered via prior directive/POA 10 years → REMOVED — Cap on continued supervision for 'crimes of violence' 2022 — Year statute was enacted, 19 years after Sell v. United States

SECTION 1: WHAT THIS STATUTE IS AND WHERE IT CAME FROM

Minnesota Statutes 611.40 through 611.59 were enacted in 2022 as Chapter 99, Article 1 of the 92nd Minnesota Legislature, and have been amended in each subsequent session through 2025. They replaced the prior framework under Minnesota Rules of Criminal Procedure, Rule 20, which had governed competency proceedings for decades.

The statute governs every adult criminal case in Minnesota — misdemeanor through felony — in which a court, prosecutor, or defense attorney raises the question of competency to stand trial. Rule 20.01 no longer controls; these statutes supersede it entirely.

The scope is comprehensive: 19 numbered sections covering entry criteria, examination procedures, hearing procedures, competency findings, placement options, medication authority, review hearings, likelihood determinations, hearing conduct, confinement credit, navigator services, a permanent governing board, a curriculum certification system, an advisory committee, and program standards.

The statute is housed in Chapter 611 of the Minnesota Statutes, titled 'Criminal Procedure.' It is not a mental health chapter. It is not a civil commitment statute. It is blackletter criminal procedure, and every provision within it applies to persons who have not been convicted of anything.

SECTION 2: THE DATA CONTEXT — WHAT MCRO TELLS US

Before analyzing the text of this statute, it is worth placing it in empirical context. The statutory framework is not theoretical. A forensic analysis of the Minnesota Court Records Online (MCRO) system — applied to a corpus of Hennepin County Fourth Judicial District criminal case records — produces the following findings.

In a cohort of 163 cases identified through the hearing dockets of three specific judicial officers, the following docket events appear:

Docket Event	Set A (163)	Set C (163)	Set B (163)
Order — Evaluation for Competency to Proceed (Rule 20)	**95.7%**	**97.5%**	26.4%
Rule 20 Evaluation Report	**84.0%**	**90.8%**	25.2%
Found Incompetent	**86.5%**	**70.6%**	20.2%
Notice of Remote Hearing with Instructions	87.1%	85.9%	—
Hearing Held Remote	**99.4%**	73.6%	—

Table 1: Rule 20 pipeline event rates across three 163-case cohorts. Sets A and C are drawn from the tri-judge cluster; Set B is drawn from a broader Hennepin County comparison pool. Source: MCRO forensic database.

The statute's pipeline is not applied to a small subset of defendants who genuinely cannot understand proceedings, consult with counsel, or participate in their defense. In the cohort most directly linked to the judicial officers managing these proceedings, the pipeline is applied to virtually everyone. This is the empirical context within which the structural analysis that follows should be read.

> **MCRO Data Observation**
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> *In the tri-judge cluster cohort, defendants simultaneously carry a 'Found Incompetent' docket event in 86.5% of cases and a 'Hearing Held Remote' event in 99.4% of cases. The statute's own definition of incompetence (611.42 Subd. 1) includes inability to 'understand the proceedings' and 'rationally consult with counsel.' Defendants unable to do either would appear unable to navigate a remote video hearing requiring technical setup and comprehension of proceedings. The co-existence of these two events in nearly every case in the cohort is a structural anomaly the data does not resolve.*

SECTION 3: READING THE DEFINITIONS — HOW WIDE IS THE GATE

Every statutory system begins with its definitions. MN Stat. 611.41 defines the terms that control who enters this pipeline, and the definitions are worth reading carefully.

3.1 — 'Cognitive Impairment' (Subd. 3)

The statute defines cognitive impairment as 'a condition that impairs a person's memory, perception, communication, learning, or other ability to think.' The definition then provides: 'Cognitive impairment may be caused by any factor including traumatic, developmental, acquired, infectious, and degenerative processes.'

There is no severity threshold in this definition. No requirement that the impairment be significant, substantial, or clinical. No requirement that it be diagnosed. No requirement that it be persistent. Any condition affecting any aspect of cognitive function — including, by the text, brief or situational impairment — falls within the definition's scope.

Compare this to 'mental illness' (Subd. 12), which requires: an organic brain disorder or clinically significant disorder 'that grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand.' The mental illness definition includes the word 'grossly.' The cognitive impairment definition does not.

> **Design Observation**
> *The statute provides two routes into the competency pipeline — mental illness and cognitive impairment. The mental illness route requires gross impairment and is explicitly limited by exclusions (epilepsy, antisocial personality, intoxication, substance use patterns). The cognitive impairment route requires only 'a condition that impairs' — without any qualifier. The broader route has the lower threshold.*

3.2 — 'Competency' (Subd. 4a)

The statute defines competency as 'the ability to understand criminal proceedings, consult with counsel, and participate in the defense.' This is structurally similar to the federal Dusky standard (discussed in Section 8), though the Dusky standard requires that consultation with counsel be with 'a reasonable degree of rational understanding,' and requires 'a rational as well as factual understanding of the proceedings.' The Minnesota definition does not use the word 'rational.' It simply requires 'ability to understand' and 'ability to consult.' Whether this represents a meaningful difference or merely a drafting choice is a question the statute leaves unresolved.

3.3 — 'Suspend the Criminal Proceedings' (Subd. 14)

This definition is the most consequential in the chapter. 'Suspend the criminal proceedings' means 'to cease all hearings and decisions regarding the merits of criminal charges but not terminate the jurisdiction of the court or prevent hearings or decisions in any other matters, including but not limited to establishing or modifying bail, conditions of release, probation conditions, no contact orders, and appointment of counsel.'

This is not a pause. It is a suspension that preserves and in some respects expands the court's authority over the defendant. The criminal case is frozen — no trial, no resolution — but the court retains full jurisdiction to impose and modify conditions of release, to hear competency review proceedings, and to order placement, medication, and supervision. The defendant remains subject to the court's authority without the case moving toward any resolution.

SECTION 4: THE PIPELINE — 611.40 TO 611.59 AS A NUMBERED SEQUENCE

The following table maps each section of the statute to its functional role in the pipeline. The diagram that follows renders this sequence visually.

Section	Title	Pipeline Function
611.40	Applicability	Establishes that this statute governs all adult competency proceedings; Rule 20 cross-references apply here.
611.41	Definitions	Sets the entry criteria and conceptual framework. 'Cognitive impairment' — no severity floor. 'Suspend' — preserves jurisdiction.
611.42	Competency Motion	Any party or the court itself may raise competency at any time. No consent required. In felonies/GM: court must suspend and order exam.
611.43	Examination	Court appoints examiner — who is the court's witness. Report includes opinion on medication capacity.
611.44	Contested Hearing	Defendant is presumed incompetent. Burden of proof on defendant. Defense counsel may testify.
611.45	Competency Findings	Court rules competent or incompetent. Incompetent → 611.46. Dismissal timelines — with carve-outs.
611.46	Placement	Court orders least restrictive program. Options: jail-based, locked treatment, community, alternative. Credit calculation required.
611.47	Administration of Medication	CENTRAL OPERATIONAL CHAPTER. Three routes to involuntary neuroleptics. Emergency pathway. Administration without judicial review. Force procedures.
611.48	Review Hearings	Either party may request review of competency attainment programming within 30 days
611.49	Likelihood to Attain	If substantial probability found → back to 611.46 (loop restarts). If not → may dismiss; or order continued supervision.
611.50	Hearing Conduct	Hearings may be remote. Defendant may be excluded if disruptive, refusing, or 'incapable of comprehending.'
611.51	Credit for Confinement	Time spent confined in secure setting while assessed or receiving services must be credited as time served.
611.55	Forensic Navigator	Navigator appointed upon motion. Reports to court. Continues assertive outreach 90 days after dismissal.
611.56	Competency Attainment Board	Permanent governmental body in judicial branch. Seven members. Controls certification, budget, standards.

611.57	Certification Advisory Committee	Includes: MN Corrections Assn president, DHS CEO, MN Sheriffs' Assn president. Advises on certification.
611.58	Curriculum	Board-certified standardized curriculum for 'attaining competency.' Delivered in community and correctional settings.
611.59	Programs	Certification standards for competency attainment programs. Jail-based programs must have involuntary medication policies.

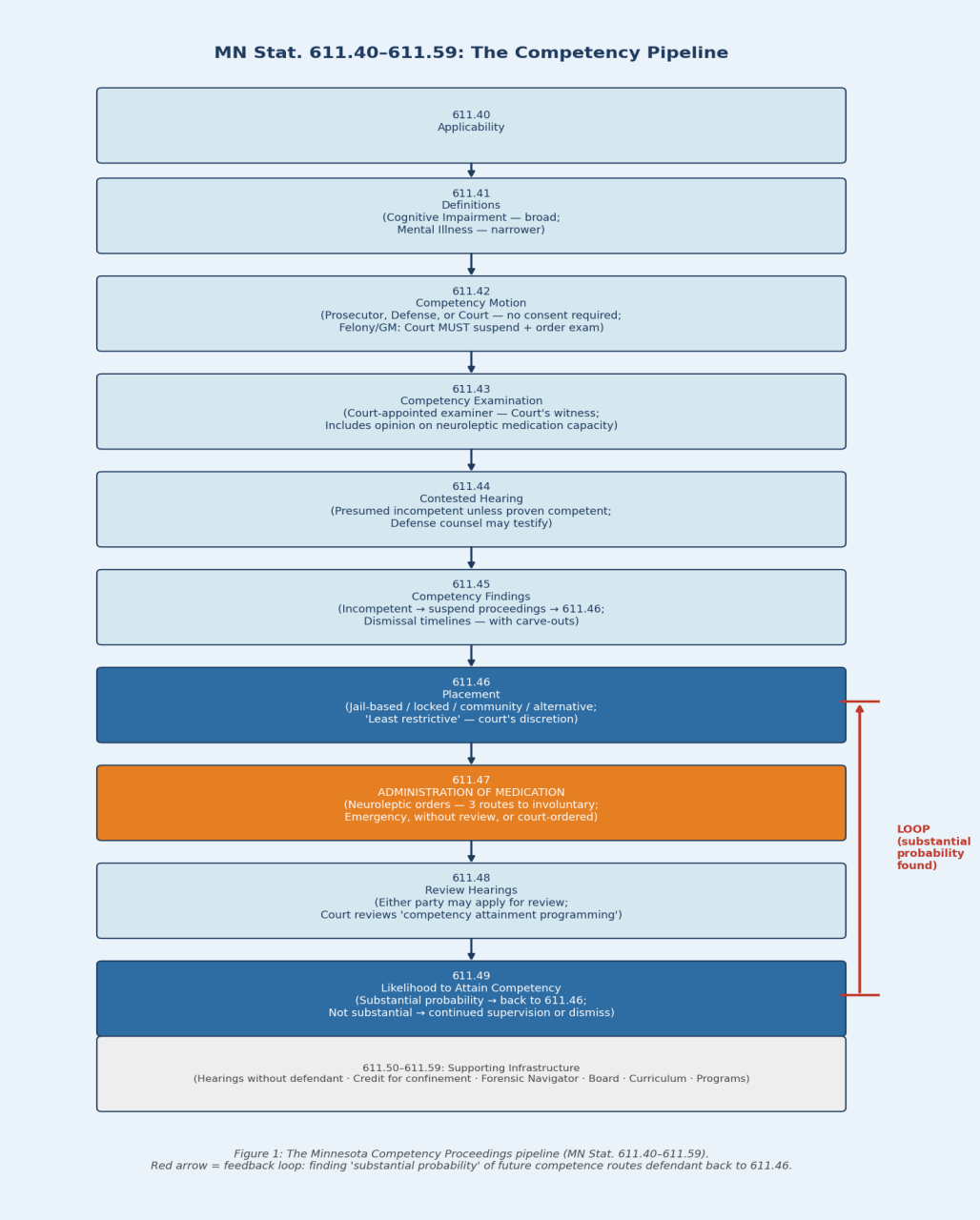

Figure 1: The Minnesota Competency Proceedings pipeline (MN Stat. 611.40–611.59).
Red arrow = feedback loop: finding 'substantial probability' of future competence routes defendant back to 611.46.

Figure 1: The complete Minnesota Competency Proceedings pipeline (MN Stat. 611.40–611.59). Red arrow indicates the feedback loop generated by a 'substantial probability' finding under 611.49.

SECTION 5: THE LOOPS — HOW THE STATUTE KEEPS HOLD

The statute contains two structurally distinct loop mechanisms. The first is the inner procedural loop — the competency attainment cycle between placement (611.46) and the likelihood determination (611.49). The second is the outer architectural loop — the interaction between the dismissal timelines in 611.45 and the carve-outs in 611.49 that prevent those timelines from operating. Understanding both requires following the cross-references the statute provides.

5.1 — The Inner Loop: 611.45 → 611.49

When a defendant is found incompetent under 611.45, they are routed to 611.46 (placement in a competency attainment program). There, they receive services, potentially involuntary medication under 611.47, and periodic review under 611.48. After a sufficient period, the court holds a likelihood-to-attain hearing under 611.49.

611.49 Subd. 2(a) states: 'If the court finds that there is a substantial probability that the defendant will attain competency within the reasonably foreseeable future, the court shall find the defendant incompetent and proceed under section 611.46.'

This is the loop in explicit statutory form. A finding of 'substantial probability' — a hopeful finding, the most optimistic outcome at this stage — generates a new finding of incompetence. The defendant is not advanced toward resolution. They are found incompetent again and returned to the beginning of the placement cycle. Both exits from this hearing path back into the system: 'probable competency' returns to 611.46, and 'not probable' — rather than terminating the case — routes to continued supervision or a public-safety carve-out that preserves the court's jurisdiction.

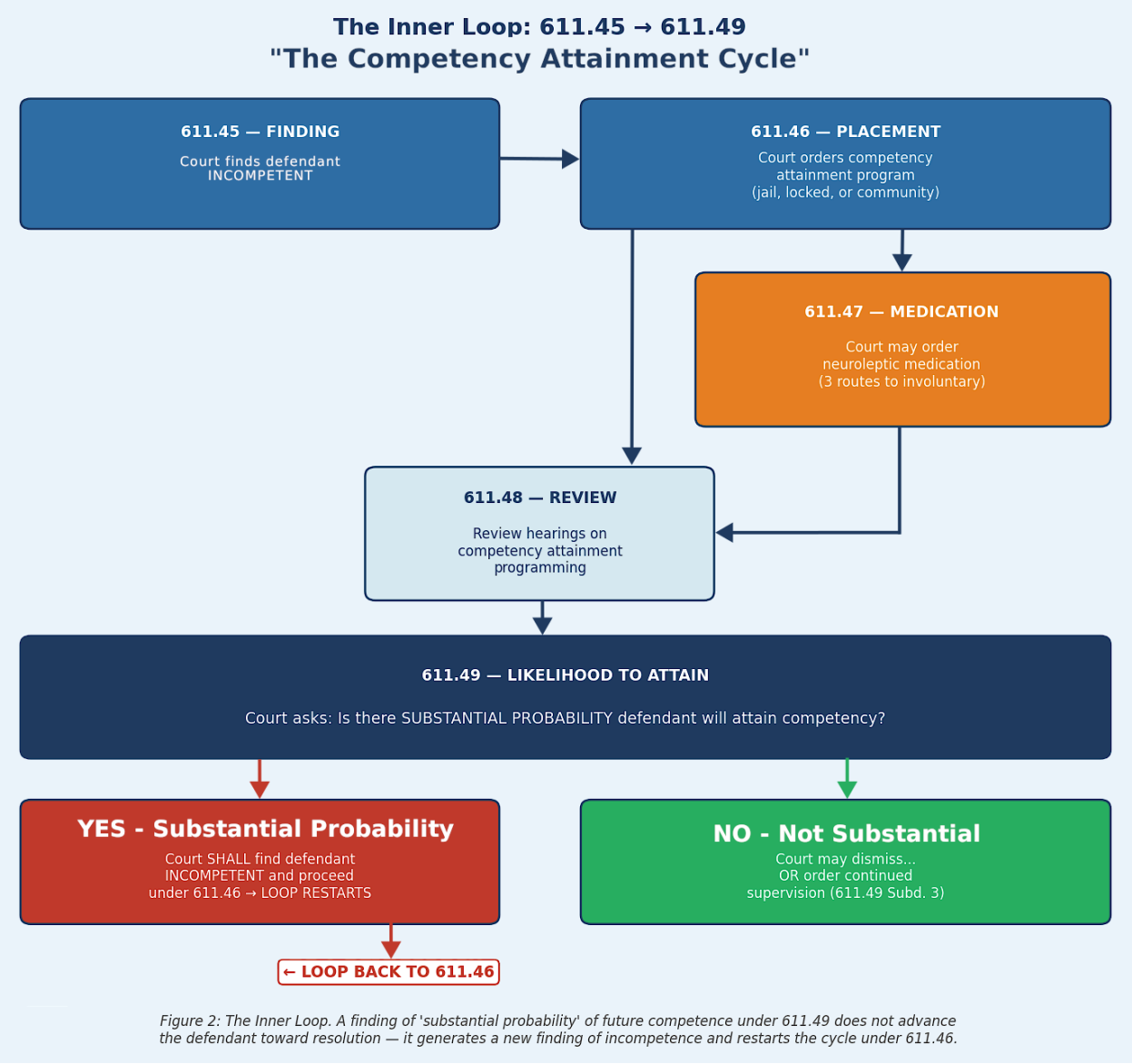

Figure 2: The Inner Loop. A finding of 'substantial probability' of future competence under 611.49 does not advance the defendant toward resolution — it generates a new finding of incompetence and restarts the cycle under 611.46.

Figure 2: The Inner Loop. A 'substantial probability' finding at the 611.49 hearing generates a new incompetence finding and re-routes the defendant to 611.46. Both exits from the 611.49 hearing produce continued court jurisdiction.

5.2 — The Outer Loop: The Dismissal Escape Hatch Architecture

MN Stat. 611.45 Subd. 3 provides dismissal timelines for each charge category:

- Misdemeanor (non-targeted): charges must be dismissed upon finding of incompetence.
- Targeted misdemeanor: dismissed within one year (with notice of intent).
- Gross misdemeanor: dismissed within two years (with notice of intent).
- Felony: dismissed within three years; five years with notice; ten years if maximum sentence is ten or more years.

These timelines appear to provide guaranteed eventual resolution. They do not. Each guarantee is conditional, and the conditions are designed to dissolve the guarantee.

611.45 Subd. 3(d) states: 'The requirement that felony charges be dismissed under paragraph (c) does not apply if: (1) the court orders continuing supervision or monitoring pursuant to section 611.49; or (2) the defendant is charged with a violation of [crimes of violence as defined in section 624.712, subdivision 5].'

The first carve-out requires nothing more than a single judicial order — the same order that routes the defendant into the continued supervision cycle with no guaranteed termination. The second carve-out removes the dismissal requirement entirely for any charge classified as a crime of violence. And for that category, 611.49 Subd. 3(f) further provides that the court 'may not order continued supervision or monitoring of a defendant charged with a felony for more than ten years unless the defendant is charged with a violation of [crimes of violence]' — meaning the 10-year cap itself is inapplicable to the very charge category for which dismissal was already unnecessary.

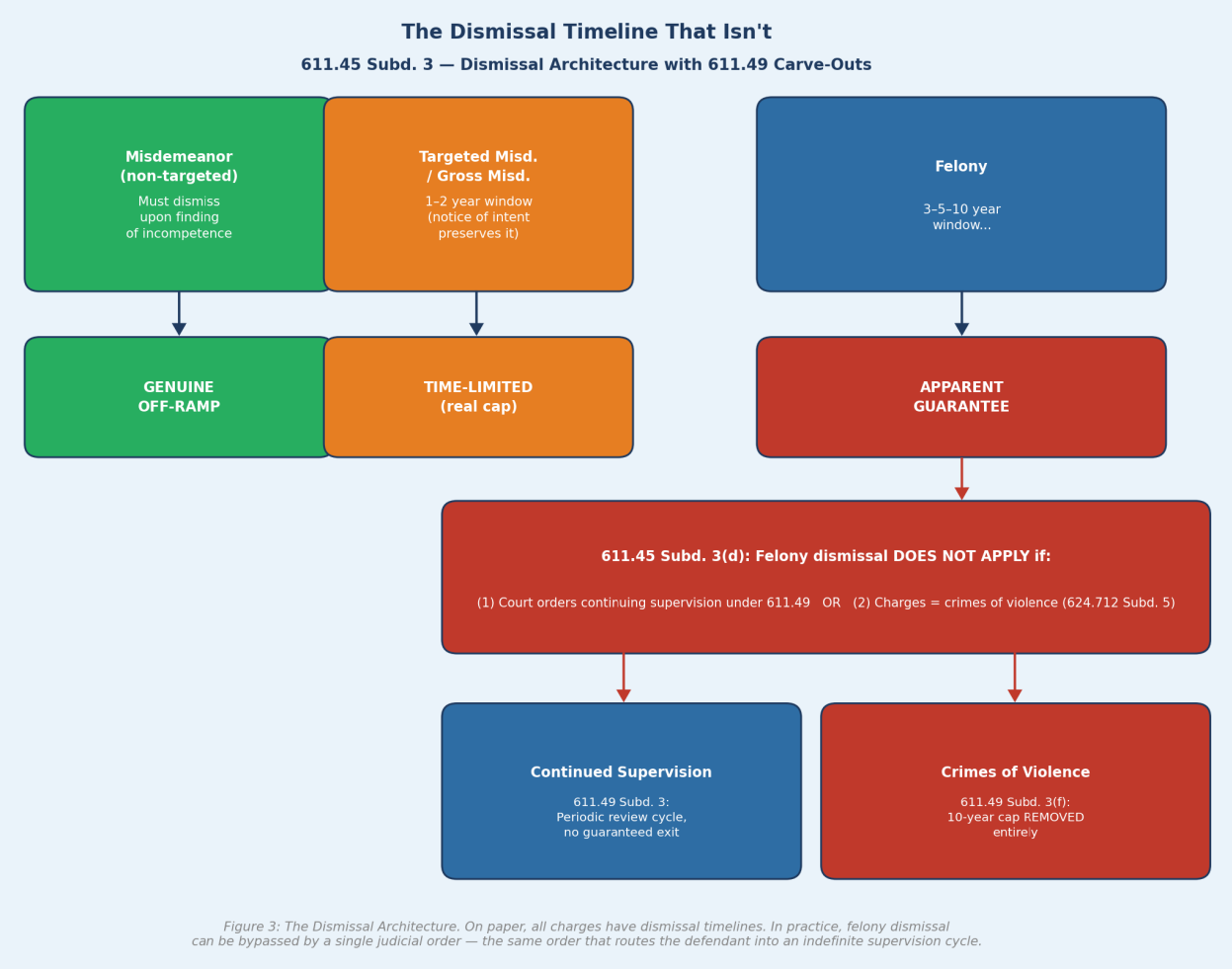

Figure 3: The Dismissal Timeline That Isn't. The architecture shows how each charge category's apparent dismissal guarantee interacts with the 611.49 carve-outs that prevent the timelines from operating.

The Key Line (611.45 Subd. 3(d))

'The requirement that felony charges be dismissed under paragraph (c) does not apply if: (1) the court orders continuing supervision or monitoring pursuant to section 611.49.' In plain terms: the entire dismissal guarantee for felony charges can be bypassed by a single judicial order — the same order that routes the defendant into a supervision cycle with no guaranteed termination point.

SECTION 6: THE MEDICATION CHAPTER — A FORENSIC ANALYSIS OF 611.47

Section 611.47 is positioned between placement (611.46) and review (611.48) in the pipeline — as analyzed in Section 4, not as a peripheral provision but as a named stage in the competency proceedings sequence. It is not a mental health statute. It is not a hospital policy. It is a subsection of Minnesota's criminal procedure code that devotes more than 2,000 words to the administration of neuroleptic medication to defendants who have not been convicted of anything.

6.1 — Placement and Context

The placement of 611.47 in the pipeline communicates a design choice. Between 'you are incompetent and we are placing you in a program' (611.46) and 'we are reviewing your progress' (611.48), the statute inserts a dedicated chapter on the administration of medication. Medication is not a side provision triggered in exceptional circumstances. It is a standard operational stage of the competency proceedings workflow.

The statute could have cross-referenced the civil mental health treatment framework and said 'medication questions shall be governed by chapter 253B.' It did not. It wrote its own detailed medication protocol into the criminal procedure code, complete with a capacity assessment framework, three independent authorization routes, emergency provisions, provisions for administration without judicial review, a balancing-factors test, and a physical force procedure specifying permitted delivery methods.

6.2 — The Presumption of Capacity and Its Erosion

611.47 Subd. 3(a) begins correctly: it applies a rebuttable presumption that the defendant has capacity to make medication decisions. The defendant retains this capacity if they: (i) have awareness of their situation and the consequences of refusing; (ii) understand the medication and its risks, benefits, and alternatives; and (iii) communicate a clear choice that is a reasoned one not based on a symptom of mental illness.

The court making this capacity determination is the same court that has already found the defendant incompetent to stand trial. The defendant is in custody or supervision. The court examiner — who functions as the court's witness — has already filed a report. The structural context in which the capacity determination occurs is not neutral.

6.3 — The Three Routes to Involuntary Medication

If the court finds capacity lacking, it proceeds to determine whether any of three conditions exist (611.47 Subd. 3(b)):

Route 1: Serious Harm to Health (Subd. 3(b)(1))

The defendant's mental illness requires neuroleptic medication, and without it, 'serious harm to the physical or mental health of the defendant' will result. The statute specifies that this requires evidence of present adverse effects, substantial deterioration, or likelihood of deterioration.

Importantly, it does not require imminent danger. 'Likelihood of deterioration' without current emergency satisfies the route.

Route 2: Danger to Others (Subd. 3(b)(2))

Neuroleptic medication is medically necessary and the defendant is a danger to others based on a prior act, attempt, or serious threat of substantial bodily harm. This is the most narrowly written route and most closely aligned with conventional emergency standards. It requires a demonstrated history of dangerous behavior, not just a clinical assessment of risk.

Route 3: The Sell Route (Subd. 3(b)(3))

The statute's third route mirrors the framework of Sell v. United States (2003), though with structural differences analyzed in Section 8. The five elements are: (i) the state has charged the defendant with a serious crime against person or property; (ii) involuntary medication is substantially likely to render the defendant competent to stand trial; (iii) medication is unlikely to have side effects interfering with the defendant's ability to understand proceedings or assist counsel; (iv) less intrusive options are unlikely to achieve substantially the same results; and (v) neuroleptic medication is in the defendant's best medical interest in light of their medical condition.

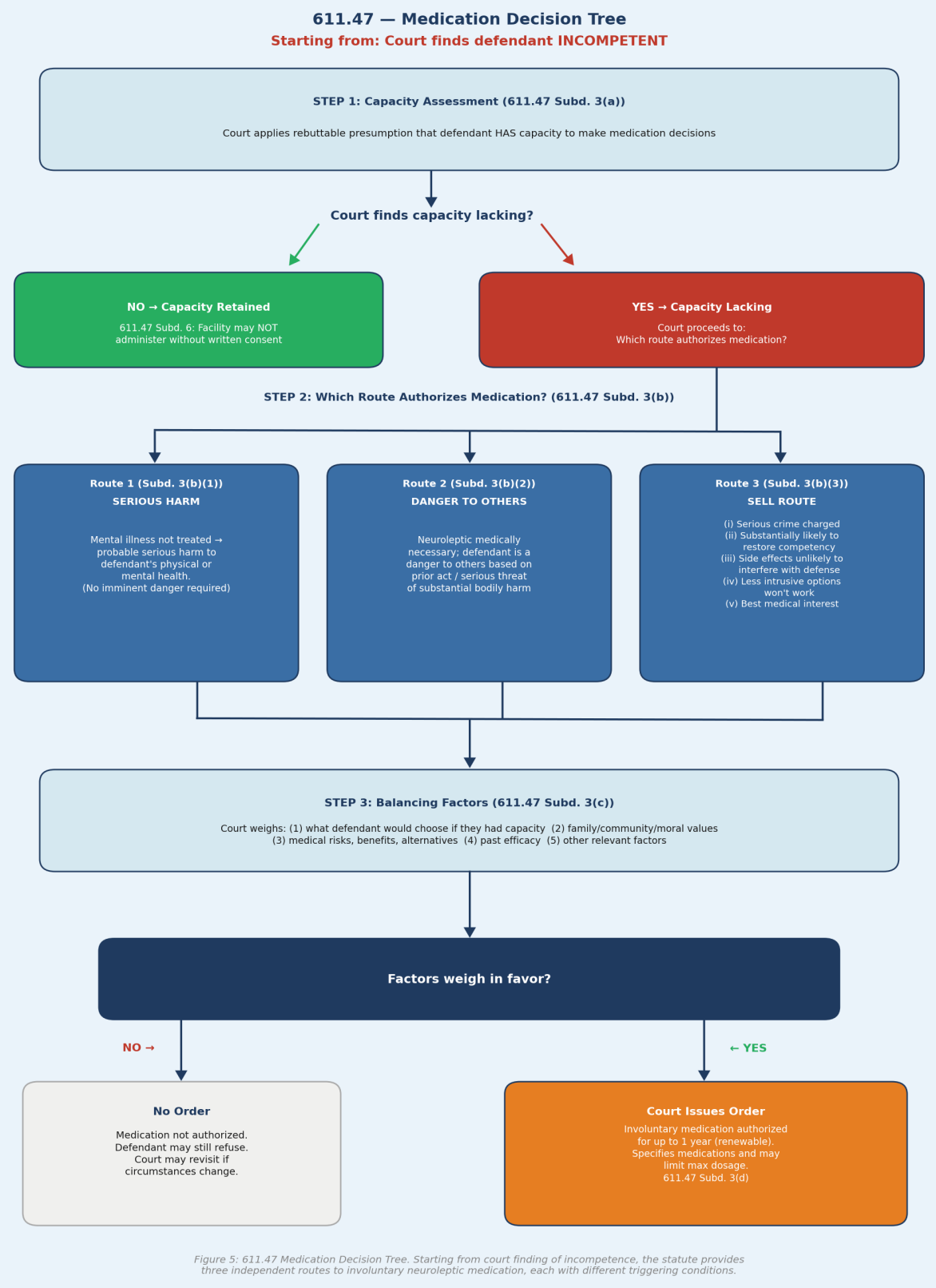

Figure 5: 611.47 Medication Decision Tree. Three independent routes to court-authorized involuntary neuroleptic medication, each with different triggering conditions and evidentiary standards.

6.4 — The Gap Between Subd. 4 and Subd. 5 (The Most Important Structure in the Chapter)

This analysis treats the relationship between Subdivisions 4 and 5 of 611.47 as the most legally significant structural feature in the entire statute. The gap between them is not ambiguous. It is deliberate.

Subd. 4 — Emergency Administration (verbatim excerpt)

'A treating medical practitioner may administer neuroleptic medication to a defendant who does not have capacity to make a decision regarding administration of the medication if the defendant is in an emergency situation. Medication may be administered for so long as the emergency continues to exist, up to 14 days, if the treating medical practitioner determines that the medication is necessary to prevent serious, immediate physical harm to the defendant or to others...'

The operative standard: no capacity + emergency situation + medication necessary to prevent serious, immediate physical harm. This is the classic emergency exception — clear trigger, time-limited, documented in specific behavioral terms.

Subd. 5 — Administration Without Judicial Review

Immediately following the emergency standard, the statute writes a second pathway for medication without judicial review. Subd. 5 provides two routes:

Path (1): The defendant was prescribed neuroleptic medication before admission, now lacks capacity to consent, continued administration is in their 'best interest,' and — crucially — 'the defendant does not refuse administration of the medication.' This path has no emergency requirement. No danger requirement. No imminent harm requirement. The defendant's non-refusal — which includes being too confused or sedated to object — satisfies the consent substitute. The medication may continue for up to 14 days, and if a court order is requested within 14 days, administration may continue through the hearing date.

Path (2): The defendant lacks capacity, but previously signed a health care directive or power of attorney authorizing an agent to request treatment. The agent now requests treatment. No emergency required. No danger required. No explicit time limit. No explicit requirement to seek a court order at all.

> **The Critical Observation: Subd. 4 vs. Subd. 5**
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> *The legislature clearly knew how to write an emergency standard — they did it in Subd. 4. Subd. 4 says: no capacity + serious, immediate physical harm. Subd. 5, written immediately afterward, says: no capacity + either a prior prescription and passive non-refusal OR a prior document and an agent's request. There is no continuity between these standards. The emergency requirement was deliberately not carried forward. The result is two separate pathways to administer neuroleptic medication without a judge's prior approval — and only one of them requires any danger at all.*

6.5 — Subd. 7: The Provision No One Expected to Find in a Criminal Statute

611.47 Subd. 7, titled 'Procedure when patient defendant refuses medication,' reads in full:

'If physical force is required to administer the neuroleptic medication, the facility or program may only use injectable medications. If physical force is needed to administer the medication, medication may only be administered in a setting where the defendant's condition can be reassessed and medical personnel qualified to administer medication are available, including in the community or a correctional facility. The facility or program may not use a nasogastric tube to administer neuroleptic medication involuntarily.'

A nasogastric tube (NG tube) is a thin, flexible tube inserted through the nostril, down the throat, through the esophagus, and into the stomach. It is used to deliver food or medication directly to the stomach when a patient cannot or will not take substances orally. Once placed, it can be secured in position and used repeatedly to administer substances, including crushed medications dissolved in liquid, without the patient's active cooperation.

Subd. 7 does not authorize forced medication — that authorization comes from the court order under Subd. 3 or the pathways in Subd. 4 and 5. Subd. 7 presupposes that we have already moved past the 'should we?' question. The court has authorized medication. The defendant is refusing. Physical force is being used. This subdivision governs how that force is applied.

The rules the subdivision establishes: injectable medications only (intramuscular or intravenous); the administration must occur in a setting with medical personnel and reassessment capability, including in the community or a correctional facility; and nasogastric tubes are explicitly prohibited for this purpose.

What the NG Tube Prohibition Means

Statutory prohibitions are written because practices exist, or are imminent enough to require explicit foreclosure. Someone in the drafting process of a Minnesota criminal procedure statute had sufficient familiarity with involuntary medication methodology to know that nasogastric tube delivery of neuroleptic medication was worth addressing — and to draw the line at injections. The prohibition is not a safeguard against a purely theoretical risk. It is a historical document: evidence of the world the drafters inhabited.

SECTION 7: THE WORD FREQUENCY ANALYSIS — WHAT THE STATUTE COUNTS AND WHAT IT DOESN'T

The following tables present a frequency analysis of key terms across the full text of MN Stat. 611.40–611.59 (2025), approximately 23 pages of statutory text.

Term	Occurrences in 611.40–611.59
medication	**59**
neuroleptic	**37**
mental illness	19
administration of neuroleptic medication	**16**
mental health	15
authoriz(ed/ing/ation)	10
611.47 ADMINISTRATION OF MEDICATION (cross-refs)	4
administration of involuntary medication	1
dosage	1

Table 2: Terms the statute uses repeatedly.

Term	Occurrences in 611.40–611.59
dangerous	0
due process	0
rights	0
constitution / constitutional	0

Table 3: Terms the statute never uses.

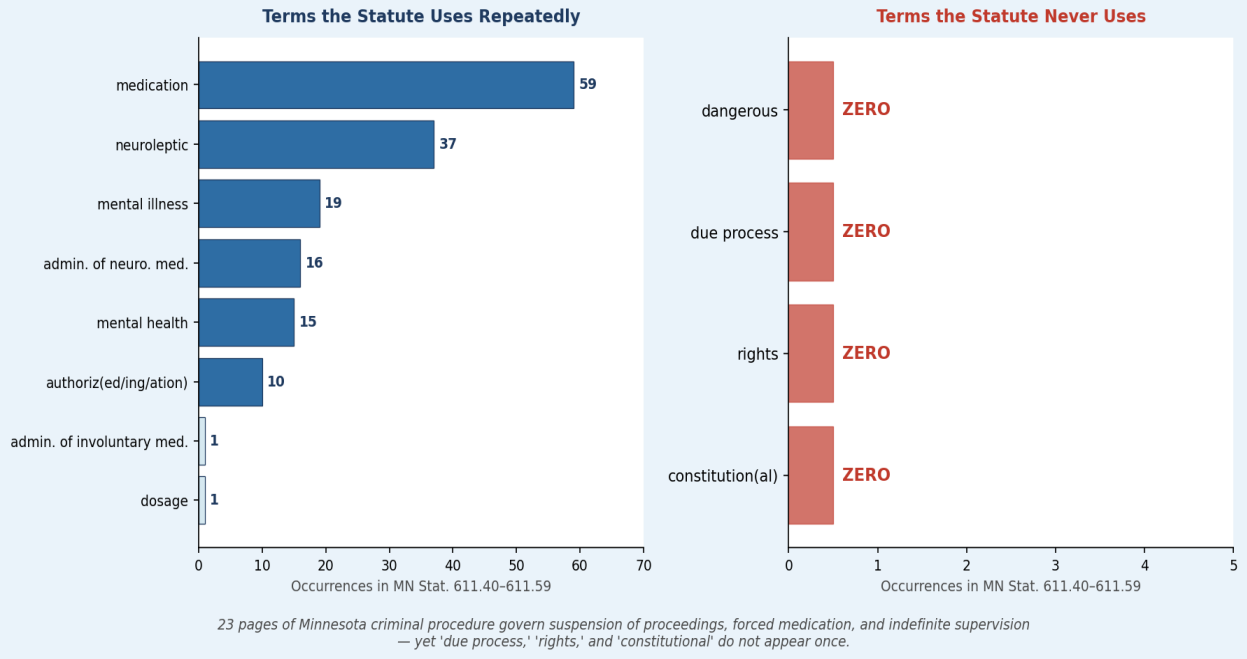

Figure 4: Word frequency comparison — terms used repeatedly vs. terms never used across MN Stat. 611.40–611.59.

Across 23 pages of statutory text that authorize the suspension of criminal proceedings, the administration of forced injections, the removal of a defendant's ability to represent themselves, the conduct of liberty-affecting hearings without the defendant's presence, and indefinite supervision without conviction — the words 'due process,' 'rights,' and 'constitutional' do not appear once.

The word 'neuroleptic' appears 37 times.

Constitutional doctrine — due process, the right to be heard, the right to refuse medical treatment — does not appear in this statute not because it is legally irrelevant (as Section 8 demonstrates, it is controlling), but because the statute was written from within a framework that treats those concepts as external constraints to be navigated, not foundational principles to be built upon.

SECTION 8: THE CONSTITUTIONAL FRAMEWORK THAT'S MISSING

Five landmark decisions of the United States Supreme Court directly govern the intersection of criminal prosecution, incompetency proceedings, and involuntary psychiatric medication. None is cited in MN Stat. 611.40–611.59. Each established constitutional requirements that are either partially replicated, structurally weakened, or absent from Minnesota's framework.

1. Dusky v. United States, 362 U.S. 402 (1960)

Dusky established the federal constitutional standard for competency to stand trial: a defendant must have 'sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding' and 'a rational as well as factual understanding of the proceedings against him.'

The Minnesota definition of competency (611.41 Subd. 4a) captures the functional elements — understand proceedings, consult with counsel, participate in defense — but omits the word 'rational' from the consultation and understanding requirements. Whether Minnesota's standard is operationally equivalent to or narrower than the Dusky standard has not been adjudicated by the Minnesota Supreme Court under the 2022 framework. The statute does not reference Dusky.

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

Jackson held that indefinite commitment of a criminal defendant solely on account of incompetency to stand trial violates the due process clause of the Fourteenth Amendment. The Court ruled: 'a person charged by a State 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... or release the defendant.'

Minnesota's statute routes defendants who are found 'unlikely to attain competency' not into civil commitment but into 'continued supervision or monitoring' — a distinct legal status that preserves criminal jurisdiction while avoiding formal civil commitment. For defendants charged with crimes of violence, this supervision is explicitly permitted to continue indefinitely, with no statutory ceiling. Whether this achieves the result the Jackson Court prohibited through different means is a constitutional question the statute does not address.

3. Washington v. Harper, 494 U.S. 210 (1990)

Harper held that a state prisoner has a liberty interest — protected by the Fourteenth Amendment's due process clause — in avoiding the unwanted administration of antipsychotic drugs. The state may override this interest where the inmate has a mental disorder and is dangerous to himself or others, but must provide procedural safeguards: an independent hearing with the inmate's right to notice, to attend, to present evidence, to cross-examine witnesses, to a lay advisor, and to appeal.

Minnesota's 611.47 provides for judicial authorization (a court hearing under Subd. 3) for the most formal medication orders. However, Subd. 5 explicitly carves out two pathways to

administer without judicial review — bypassing even the administrative process Harper held was constitutionally sufficient. Harper's baseline required an independent, structured decisionmaker. Subd. 5(1) requires only a clinician's 'best interest' judgment and the defendant's passive non-refusal.

4. Riggins v. Nevada, 504 U.S. 127 (1992)

Riggins held that a defendant awaiting trial has a valid constitutionally protected interest in refusing antipsychotic medication. The Supreme Court reversed the conviction of a defendant who had been involuntarily medicated during trial without sufficient judicial findings, holding that Nevada violated Riggins' Sixth and Fourteenth Amendment rights by permitting forced administration without making findings that it was medically appropriate and that less intrusive means had been considered.

Riggins directly implicates the trial fairness concerns that 611.47 Subd. 3(b)(3)(iii) attempts to address — requiring that medication be 'unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel.' This element tracks the Riggins concern, but Riggins required specific judicial findings at the time of medication, not merely a finding in a certification report. The statute does not explicitly require the court to revisit medication side effects at trial.

5. Sell v. United States, 539 U.S. 166 (2003)

Sell established the four-part constitutional test for involuntary medication solely for the purpose of restoring competency to stand trial: (1) important governmental interests are at stake — the charge is serious; (2) forced medication will significantly further those interests — substantially likely to render the defendant competent, substantially unlikely to interfere with the defense through side effects; (3) forced medication is necessary — less intrusive alternatives are unlikely to achieve substantially the same results; and (4) administration is medically appropriate in the patient's best medical interest.

The Court wrote that this standard 'will allow involuntary medication for the sole purpose of rendering the defendant competent to stand trial only in rare instances.'

Minnesota's Route 3 in 611.47 Subd. 3(b)(3) tracks these four elements with five sub-elements. The structure is largely equivalent. However, Sell also held that courts should 'ordinarily' determine whether forced medication can be justified on Harper-type grounds (dangerousness) before reaching the trial-competence question. Minnesota's statute does not structure the inquiry this way — Routes 1, 2, and 3 are presented as alternatives, not a required sequence.

Case	Constitutional Requirement	MN 611.47 Equivalent	Assessment
Dusky (1960)	Rational understanding standard	Functional understanding standard (no 'rational')	Possible narrowing — not adjudicated
Jackson (1972)	No indefinite commitment on incompetency alone	Continued supervision (not commitment) — jurisdictional hold preserved	Structural analogue — constitutional status unclear
Harper (1990)	Independent hearing; danger + best interest required	Court hearing for Subd. 3; BUT Subd. 5 bypasses entirely	Partially met; Subd. 5 falls below Harper floor
Riggins (1992)	Specific findings: medically appropriate + least intrusive	Subd. 3(b)(3)(iii) requires finding on side effects	Partially incorporated; trial-time monitoring gap
Sell (2003)	Four-part test; 'rare instances' standard	Five-element Route 3; no required sequencing	Substantially similar; Harper-first sequencing absent

The Constitutional Void

Every constitutional framework above was developed precisely because courts recognized that the intersection of criminal prosecution and involuntary psychiatric medication creates a category of state power so extraordinary that it requires extraordinary procedural safeguards. Minnesota's 611.40–611.59 does not cite a single one of these cases. It does not use the words 'due process,' 'rights,' or 'constitutional.' And it was enacted in 2022 — not 1922.

SECTION 9: 'CREDIT FOR CONFINEMENT' — WHAT ONE TITLE TELLS YOU

611.51 reads in its entirety: 'If the defendant is convicted, any time spent confined in a secure setting while being assessed or receiving competency attainment services must be credited as time served.'

This is one of the shortest sections in the entire chapter. Its brevity is not the point. Its existence is.

You do not give something its own numbered statutory section unless it describes a normal, recurring feature of the system. A provision for crediting pre-conviction confinement against a sentence exists because the drafters expected that confinement would occur, frequently, in a secure setting, for defendants who had not been convicted of anything — and for long enough that a formal accounting rule was necessary.

The section is positioned after 611.50 (hearings where the defendant may not be present) and before 611.55 (the forensic navigator apparatus). It sits in the operational pipeline — between 'conduct of hearings for incompetent defendants' and 'the bureaucratic infrastructure that manages them.'

The phrase 'while being assessed or receiving competency attainment services' is notable. It treats confinement as the delivery mechanism for services — as though the confinement and the service provision are the same event, naturally co-occurring. Services are delivered in a secure setting. The secure setting is, by definition, a place where you are confined.

> **611.51: The Admission**
>
> *Section 611.51 is the statute admitting, in its plainest voice, what the rest of the chapter works to obscure: the competency process regularly results in pre-conviction confinement of sufficient duration that formal sentencing credit becomes necessary. The section doesn't require confinement. It just assumes it will happen so often, and for long enough, that a math rule is required.*

SECTION 10: THE APPARATUS — WHO RUNS THIS MACHINE

Sections 611.55 through 611.59 describe the bureaucratic infrastructure that operates the pipeline. By the time a reader reaches this section, they have walked through entry criteria, hearings, findings, placement, medication protocols, review cycles, likelihood determinations, and confinement accounting. Now they arrive at the institutions that make all of it run at scale.

The Forensic Navigator (611.55)

A forensic navigator is 'a person hired or contracted to facilitate competency attainment services, supervise certain defendants found to be incompetent, prepare bridge plans, and provide the other services under section 611.55, subdivision 3.'

The navigator's duties include: assisting and monitoring defendants; developing bridge plans; coordinating placement in competency attainment programs; providing competency attainment education; reporting to the court on progress; coordinating access to housing, medical care, financial assistance, and social services; and communicating with defendants and family members.

The statute makes explicit what the navigator is not: 'Nothing shall be construed to permit the forensic navigator to provide legal counsel as a representative of the court, prosecutor, or defense counsel.' The navigator is not the defendant's advocate. They report to the court. If a defendant's charges are dismissed, the navigator may continue 'assertive outreach' with the individual for up to 90 days after dismissal.

The Minnesota Competency Attainment Board (611.56)

The Board is established in the judicial branch — though 'not subject to the administrative control of the judiciary.' It has seven members: three appointed by the Supreme Court (at least one defense attorney, one county attorney, one public member) and four appointed by the governor (at least one mental health professional). Active judges may not serve, but retired judges may.

The Board controls: program certification, forensic navigator standards, competency attainment curriculum, budget recommendations to the legislature, and district office establishment. It has a program administrator, staff, and the authority to adopt standards and propose statutory changes.

The Certification Advisory Committee (611.57)

The advisory committee includes the president of the Minnesota Corrections Association, the Direct Care and Treatment chief executive officer, the president of the Minnesota Association of Community Mental Health Providers, the president of the Minnesota Sheriffs' Association, and NAMI Minnesota's executive director, among others. These are not mental health researchers or civil rights advocates. They are the institutional operators of the competency attainment pipeline.

The Curriculum (611.58) and Programs (611.59)

The Board must develop and certify a standardized curriculum for 'attaining competency' — flexible enough to be delivered by professionals in 'criminal justice, health care, mental health care, and social services' in 'community and correctional settings.' Each program must use this curriculum and 'must not substantially alter the content.'

Jail-based competency attainment programs must have: multidisciplinary staff including a licensed psychiatric medication prescriber; the ability to prescribe, dispense, and administer 'any medication deemed clinically appropriate'; and 'policies and procedures for the administration of involuntary medication.' The last requirement is not optional. It is a certification standard. A jail-based program that lacks involuntary medication policies and procedures cannot be certified.

MCRO Data — The Scale of the System

A forensic analysis of Hennepin County court records found that in a cohort of 163 criminal cases linked to a specific cluster of judicial officers, 95.7% contained 'Order — Evaluation for Competency to Proceed (Rule 20)' as a docket event. The same pipeline produced a 'Found Incompetent' docket event in 86.5% of those cases. In a comparison sample of 163 cases drawn from the broader Hennepin County pool — which itself produced Rule 20 orders in approximately 25% of cases — not a single event type appeared in even 50% of cases. The statute's apparatus is designed to operate at scale. The data suggests it does.

SECTION 11: THE CONTRADICTION THE STATUTE CAN'T RESOLVE

The Remote Hearing Paradox

The statute simultaneously holds two positions that are in logical tension:

Position A: A defendant is incompetent to stand trial if they lack the ability to 'rationally consult with counsel,' 'understand the proceedings,' or 'participate in the defense' (611.42 Subd. 1). Once raised, they are presumed incompetent (611.44 Subd. 4). If found incompetent, they are ordered into programs and potentially medicated to restore their ability to do the very things they have just been found unable to do.

Position B: Hearings 'may be conducted by interactive video conference consistent with the Minnesota Rules of Criminal Procedure' (611.50 Subd. 1). After 90 days in a jail-based program, a review hearing is required — which the incompetent defendant may attend by video. Remote hearings require understanding written instructions, setting up or accessing technology, comprehending what is being said, and appearing as directed.

The MCRO forensic corpus documents this contradiction empirically: in the tri-judge cluster cohort, 'Notice of Remote Hearing with Instructions' appears in 87.1% of cases, and 'Hearing Held Remote' appears in 99.4% — the same cases in which 'Found Incompetent' appears in 86.5%.

The Structural Contradiction

The statute simultaneously holds that a person may be too cognitively impaired to understand the nature of criminal proceedings, consult with counsel, or participate in their own defense — and that the same person can attend, navigate, and participate in remote video hearings, which require understanding technology, following written instructions, and comprehending the proceedings well enough to appear as required. If a person is genuinely incompetent under 611.41's definitions, remote hearings should be as meaningless to them as in-person hearings. If they can navigate remote hearings, they meet the plain meaning of competency. The statute does not resolve this. It holds both positions simultaneously.

SECTION 12: WHAT THIS MEANS FOR YOU — A CITIZEN'S GUIDE

This section speaks directly to you as a Minnesota resident. The following five scenarios are not legal advice. They are plain-language illustrations of how the statute's provisions could apply to an ordinary person — someone with no mental health history, no criminal history, and no reason to expect any of this.

Scenario 1: An Unusual Theory and an Expired License

You are charged with a traffic-related offense. You have an explanation for what happened that your public defender finds unconvincing. Your attorney raises a competency motion — the statute permits any attorney to do so 'at any time' with 'specific facts' and without your consent (611.42 Subd. 3(a)). The court appoints an examiner. You are now presumed incompetent until proven otherwise (611.44 Subd. 4). The examiner is the court's witness. The question is whether your explanation constitutes a 'cognitive impairment' under 611.41's broad definition. There is no severity floor.

Scenario 2: You Disagree With Your Attorney

You are charged with a felony. You disagree with your public defender's strategy. Your attorney files a competency motion, citing your disagreement as evidence of inability to 'rationally consult with counsel.' Under 611.42 Subd. 2(b), your attorney may testify at the competency hearing, subject to cross-examination, 'without violating attorney-client privilege.' You may not waive counsel if found unable to comprehend the proceedings — which means you cannot speak for yourself as your own attorney (611.42 Subd. 2). You are presumed incompetent. The proceeding about your competency proceeds with or without your cooperation (611.49 Subd. 1(b)).

Scenario 3: A Jail-Based Competency Program

You are found incompetent, cannot post bail, and are placed in a jail-based competency attainment program. The program's certification requires: a licensed psychiatric medication prescriber on staff; the ability to administer 'any medication deemed clinically appropriate'; and 'policies and procedures for the administration of involuntary medication' (611.59 Subd. 3). You are in a correctional facility. You are receiving 'competency attainment services.' You have not been convicted.

Scenario 4: A Court Order and Your Refusal

A court order has been issued under 611.47 Subd. 3 authorizing involuntary neuroleptic medication. You refuse. The process that follows is governed by 611.47 Subd. 7. The facility may use physical force. Only injectable medications are permitted — intramuscular or intravenous. The administration may occur in a correctional facility or in the community with a mobile medical team. Nasogastric tubes are prohibited. There is no provision permitting you to stop this because you disagree; you have already lost the medication capacity determination.

Scenario 5: Found Unlikely to Attain Competency, But Dangerous

After years in the competency pipeline, a court examiner concludes you are unlikely to ever attain competency. A likelihood hearing is held. The court agrees: no substantial probability. Under 611.49 Subd. 2(d), the court must dismiss the case — unless there is 'a showing of a danger to public safety if the matter is dismissed.' If the court makes that finding, it does not dismiss. It orders continued supervision or monitoring under 611.49 Subd. 3. For most felonies, this supervision is capped at 10 years. For crimes of violence, that cap is removed. You have never been convicted. You are now under state supervision, with periodic forensic examinations, in a case that the criminal system cannot resolve — because the case cannot proceed to trial, and the court will not dismiss.

SECTION 13: WHAT A RIGHTS-PROTECTIVE ALTERNATIVE WOULD LOOK LIKE

This section is not an assertion that the current statute is unconstitutional. It presents, in neutral terms, the features that would characterize a competency framework in which constitutional rights functioned as foundational design principles rather than external constraints.

A constitutional lawyer designing from first principles might prioritize:

- A competency definition requiring impairment to be significant, substantial, or clinically diagnosed — not merely any condition affecting any cognitive function.
- A presumption defaulting to competency rather than incompetency, with the burden of proving incompetence on the party raising it.
- A medication framework with explicit statutory cross-references to Dusky, Jackson, Harper, Riggins, and Sell — or at minimum explicit incorporation of the 'rare instances' standard from Sell.
- Mandatory judicial approval — not merely review — before any involuntary medication, including under Subd. 5 circumstances.
- Explicit prohibition on the 'non-refusal' standard in Subd. 5(1) substituting for informed consent. Passive non-objection — including inability to object due to incapacity — would not satisfy any consent requirement.
- A hard cap on the total duration of the competency process regardless of charge category, consistent with Jackson's 'reasonable period of time' requirement.
- Explicit language acknowledging defendants' due process rights, the right to refuse medical treatment, and the constitutional baseline established by the Supreme Court cases above.

The contrast between these design features and the current statute is visible in the text itself. The current statute is designed to operate. A statute designed from constitutional rights as foundational principles would look materially different.

SECTION 14: LIMITATIONS OF THIS ANALYSIS

- This is a statutory text analysis only. It does not assess how courts in practice implement these provisions, which may be more protective than the text requires in individual cases.
- The Supreme Court cases cited establish federal constitutional floors. Defendants may have stronger protections under the Minnesota Constitution, which has its own due process jurisprudence.
- The word-frequency analysis presents raw counts. The absence of 'due process' in the statutory text does not prevent courts from importing due process protections from constitutional doctrine. Courts regularly apply constitutional requirements to statutes that do not mention them.
- The MCRO statistical findings cited in Sections 2 and 10 are drawn from a specific forensic corpus of Hennepin County cases and have not been independently verified through this report.
- This analysis does not address how the statute interacts with Minnesota's civil commitment framework (Chapter 253B) or federal disability rights law, both of which may impose additional constraints.

SECTION 15: RECOMMENDATIONS FOR INDEPENDENT READING

Reading the Statute Directly

MN Stat. 611.40–611.59 (2025) is publicly available through the Office of the Revisor of Statutes at: revisor.mn.gov. Navigate to Chapter 611. All cross-referenced statutes (Chapter 253B, Section 624.712) are available at the same source.

The Five Supreme Court Cases

- Dusky v. United States, 362 U.S. 402 (1960) — The federal constitutional competency standard. Available through Google Scholar or Justia (supreme.justia.com).
- Jackson v. Indiana, 406 U.S. 715 (1972) — Due process limits on indefinite commitment based on incompetency. Available through the same sources.
- Washington v. Harper, 494 U.S. 210 (1990) — Due process requirements for medicating a prisoner over their objection. Established the liberty interest in refusing antipsychotic medication.
- Riggins v. Nevada, 504 U.S. 127 (1992) — The right of a pretrial defendant to refuse antipsychotic medication. Established that forced medication during trial requires judicial findings.
- Sell v. United States, 539 U.S. 166 (2003) — The four-part test for forcible medication to restore competency to stand trial. The Court noted this standard 'will allow involuntary medication for the sole purpose of rendering the defendant competent to stand trial only in rare instances.'

Key Search Terms

- 'Hennepin County Rule 20' — for court records and reporting on local competency proceedings
- 'Minnesota competency attainment program' — for program listings and board publications
- 'Minnesota Competency Attainment Board annual report' — for the board's required legislative reporting under 611.59 Subd. 4(b)
- 'Involuntary medication order Minnesota' — for published court decisions applying 611.47

Minnesota Legislative Process

To comment on statutory revisions or contact relevant committees: the Senate Judiciary and Public Safety Committee and the House Judiciary Finance and Civil Law Committee hold jurisdiction over Chapter 611. Contact information and bill tracking are available at leg.mn.gov. The Minnesota Competency Attainment Board is required to report to these committees by February 15 of each year under 611.59 Subd. 4(b).

APPENDIX A — FULL STATUTORY CROSS-REFERENCE MAP

The following table maps every significant cross-reference within MN Stat. 611.40–611.59, showing the source section, destination section, and the nature of the reference.

From	To	Nature	Effect
611.40	Rule 20.01	Supersedes	Chapter 611 governs all adult competency proceedings; Rule 20 no longer controls
611.42 Subd. 3(b)	611.55	Mandatory	Court shall appoint forensic navigator when competency is at issue
611.42 Subd. 3(c)	611.43	Mandatory	Felony/GM: court must suspend and order exam under 611.43
611.43 Subd. 2(b)(8)	611.47	Conditional	Examiner reports on defendant's capacity to make medication decisions
611.44 Subd. 2	Rule 20	Procedural	Appeals governed by MN Rules of Criminal Procedure Rule 28
611.45 Subd. 1(c)	611.46	Mandatory	If incompetent, matter shall proceed under 611.46
611.45 Subd. 3(b)	611.45 Subd. 3(b)	Self-referencing	Targeted misdemeanor dismissal timelines
611.45 Subd. 3(d)(1)	611.49	Carve-out	Felony dismissal requirement does NOT apply if 611.49 supervision ordered
611.45 Subd. 3(d)(2)	624.712 Subd. 5	Carve-out	Felony dismissal requirement does NOT apply for crimes of violence
611.46 Subd. 1(d)	611.49	Conditional	After 30 days without services, court may make 611.49 likelihood determination
611.46 Subd. 3(b)	611.49	Mandatory	If still incompetent at review, court must hold 611.49 hearing
611.46 Subd. 4(b)	611.49	Conditional	After 90 days jail-based without attainment, court may proceed under 611.49
611.46 Subd. 5(e)	611.49	Mandatory	After 90 days alternative program without attainment, court must hold 611.49 hearing
611.46 Subd. 6	611.46 Subd. 6	Reporting	Court examiner reports at least every 6 months
611.47 Subd. 2(a)	611.43	Dependent	Court considers 611.43 report in making medication determination
611.47 Subd. 5(2)	145C	External	Health care directives governed by Chapter 145C

611.49 Subd. 2(a)	611.46	Loop-back	Substantial probability → shall find incompetent and proceed under 611.46
611.49 Subd. 2(c)	253B.07	External	Court may order prepetition screening under civil commitment statute
611.49 Subd. 2(d)(1)	624.712 Subd. 5	Carve-out	Must-dismiss requirement does not apply for crimes of violence
611.49 Subd. 2(d)(2)	—	Carve-out	Must-dismiss does not apply if 'danger to public safety' showing
611.49 Subd. 3(e)	611.45 Subd. 3(b)	Limitation	Continued supervision for targeted/gross misdemeanors subject to 611.45(b) caps
611.49 Subd. 3(f)	624.712 Subd. 5	Exception	10-year supervision cap removed for crimes of violence
611.50 Subd. 1	MN Rules of Crim. Proc.	Procedural	Video hearings must be consistent with criminal procedure rules
611.55 Subd. 3(c)	611.46 Subd. 2(b)	Operational	Navigator monitors compliance per 611.46 monitoring orders
611.56 Subd. 2(b)(5)	611.57, 611.58, 611.59	Mandatory	Board carries out certification advisory committee, curriculum, and programs
611.57 Subd. 4	DHS, DOH, DOC, DCT	External consultation	Advisory committee must consult with state agencies
611.59 Subd. 3(2)	611.47	Operational	Jail-based programs must have involuntary medication policies and procedures
611.59 Subd. 4(b)	Legislature	Reporting	Board reports to legislative committees by February 15 annually

APPENDIX B — COMPARATIVE STATE SURVEY

The following table provides a brief comparison of how five states structure their competency and involuntary medication frameworks relative to Minnesota's 611.40–611.59.

State	Competency Standard	Forced Med. Location	Dismissal Timeline	Constitutional Cite
Minnesota (611.40–611.59)	**Cognitive impairment** (no severity floor) or mental illness (gross impairment). **Presumption of incompetence.**	**In criminal procedure code,** with jail-based program standards.	**Felony: 3–5–10 yrs;** bypassed by 611.49 supervision order. **No cap for crimes of violence.**	**None — no cases cited in statute text.**
California (PC § 1368–1370)	Unable to understand nature of proceedings or assist counsel in rational manner. Burden on party raising incompetence.	Cross-reference to WIC § 5008 for emergency; PC § 1370 for court-ordered. Separate from criminal procedure chapter.	Commitment period capped at max sentence for charged offense; misdemeanors: 3 years.	Sell criteria explicitly cited in PC § 1370 (a)(2)(B)(iii)(III).
Texas (Code Crim. Proc. Art. 46B)	Unable to consult with attorney with reasonable degree of rational understanding; lacks rational/factual understanding of proceedings.	In mental health code (Health & Safety Code); criminal statute cross-references separately.	Felony: max sentence or 120 days (whichever less) for misdemeanor. Cap tied to maximum sentence.	Art. 46B explicitly references constitutional standard.
Washington (RCW 10.77)	Unable to understand nature of proceedings; assist own attorney; communicate with attorney.	In forensic mental health statute (RCW 10.77); separate from general criminal procedure.	Felony: cannot confine longer than lesser of 10 yrs or max sentence. Regular Jackson reviews.	RCW 10.77 cites Jackson v. Indiana by name.
Federal (18 U.S.C. § 4241–4247)	Dusky standard: rational + factual understanding; ability to assist counsel. Burden on defendant.	Governed by Bureau of Prisons policy + Harper/Riggins/Sell case law. No standalone forced-med statute.	Court 'shall' hospitalize for reasonable time. Jackson floor applies. Annual re-evaluation required.	Sell, Harper, Riggins, Dusky all directly applicable through case law.

Note: California's PC § 1370 explicitly requires that before a Sell-route involuntary medication order issues, the court must find that Route 1 (harm to health) and Route 2 (danger to others) criteria are not met. Minnesota's 611.47 Subd. 3(b) presents all three routes as alternatives without requiring this sequencing.