



## Support SB20-181

### Measures On Incompetent To Proceed

*Sen. Pete Lee | Rep. Mike Weissman*



Over the last two decades, requests for competency evaluations have increased 10 fold and orders for inpatient restoration have surged from under 100 to almost 800 annually. However, typically only half of those individuals receiving restoration in the state hospital meet clinical criteria for inpatient hospitalization.



While individuals with Intellectual/Developmental Disabilities (I/DD) represent 2-3% of the general population, research shows they are a growing population in jail, up to 4-10%. Oftentimes, individuals with I/DD in the criminal justice system have co-occurring mental health conditions and, due to their disabilities, may never be able to attain competency to stand trial. Under the current system, they are forced to spend months in jail or the state hospital. The same problem exists for those with dementia or brain injuries.



Colorado is currently paying \$10 million each year in fines due to the competency backlog and forcing individuals who have raised competency to spend months languishing in jail awaiting restoration.



Even though the prevalence of serious mental illness is relatively consistent at about 5% of the general population, within 5 years (2013-2018), felony charges filed against someone who was found incompetent to proceed for assaulting a first responder increased over 11 times. In 2018, nearly 1 in 6 of these charges were made when the person was found incompetent to proceed.

### SB20-181:

- **Municipal** - Lowest level offenders determined incompetent to proceed (ITP) will be released from the criminal system and may receive needed services in the community.
- **Misdemeanors** - Individuals charged with any misdemeanor who are found ITP and who do not need in-patient hospitalization will:
  - Have a speedy bond hearing where they will be presumptively released on their own recognizance to receive appropriate services in the community
  - Be able to access state-run discharge planning to ensure they are connected with adequate community services

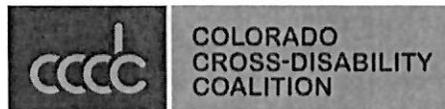
## SB20-181 (continued):

- **Permanently Incompetent** - For individuals who are caught in the criminal justice system, but due to their disabilities are unable to attain and/or maintain competency, the court shall dismiss the charges and refer them to the civil system or make findings on the record to justify holding them in the criminal justice system. This applies to:
  - Individuals found ITP and not likely to regain competence within the past 5 years and whom an evaluator finds to be in the same condition currently
  - Individuals with moderate to severe Intellectual/Developmental Disabilities, dementia, or brain injuries who, because of their disabilities, an evaluator finds ITP and unlikely to attain and/or maintain competence
  - Individuals who are found ITP 3 or more times in the past 3 years and who, even if they regain competence at times, continue to be found ITP with no likelihood of retaining competence for the reasonably foreseeable future

SB 181 does not: Require judges to release anyone from jail, override clinical opinions of evaluators, or presume all individuals with disabilities are incompetent.

## Supporters

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