

Sponsors:

Senators Simpson & Amabile
Representatives Caldwell & McCluskie

Summary

This bill reforms the current competency process within the judicial system in a number of ways. Notably, the bill:

- Allows district attorneys to pursue long-term civil commitment for violent offenders who are also mentally incompetent.
- Allows for civil proceedings to occur simultaneously with criminal proceedings, while before, civil proceedings could not begin until charges were dismissed in the criminal trail even if a violent crime was committed.
- Prohibits the easy dismissal of charges for DUIs and reckless driving.
- Provides more treatment options for those with genuine mental disabilities.

Overall, SB26-149 increases accountability for offenders and helps keep dangerous criminals off Colorado streets and out of local communities.

Analysis

Cases such as these have increased the attention on the current competency laws:

- Joel Lang, who was found incompetent after dragging and killing a woman with his car in Colorado Springs.
- Solomon Galligan, a registered sex offender found incompetent for the 4th time who attempted to kidnap a child from their elementary school.
- Ephraim Debisa was found incompetent after attempting murder, only to be arrested again 2 weeks after his release in Weld County.

Colorado's competency laws were originally designed to protect defendants with severe mental or cognitive impairments who are unable to fully understand or participate in their criminal proceedings. However, in recent years, they have been misused as a loophole to avoid justice, allowing some defendants to claim incompetency to delay trials, avoid heavy prosecution, or evade jail time altogether.

HB24-1034 expanded this competency loophole, requiring that when a defendant is deemed permanently incompetent and not restorable, the court is required to dismiss the charges entirely. Along with automatic dismissal of criminal proceedings if the defendant is deemed incompetent, the law was supposed to shift more defendants out of county jails and into community-based restoration services.

However, the actual result of the law has been that violent and repeat offenders are released right back into the communities they have harmed. If the state does not have available beds in civil commitment facilities or if the defendant refuses to agree to be admitted to the facilities, they must be released. Though SB26-149 does not fix every issue within the competency system, it is a significant improvement compared to what is currently in Colorado law.