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Senator Kirkmeyer Calls for Immediate Fix to Competency Law Gaps

(Denver, CO – September 30, 2025) – Senator Barb Kirkmeyer today urged swift action to address critical gaps in Colorado’s competency laws, citing constitutional requirements and concerns raised by prosecutors and mental health professionals across the state.

“The Colorado Supreme Court made it clear decades ago that individuals deemed incompetent cannot simply be left in jail,” said Senator Kirkmeyer. “While the law passed in 2024 sought to address constitutional concerns, it has instead fueled Colorado’s crime wave. Lawmakers must act to fix this.”

Kirkmeyer explained that under the current statute, the burden of proof regarding competency falls on prosecutors, rather than the defense, creating risks for both public safety and due process. She pointed to conversations with prosecutors who agree the presumption needs to be reversed: the defense should have to demonstrate competency rather than forcing prosecutors to prove incompetence.

“HB 1034 was billed as a necessary fix for a constitutional deficiency, but its application has clearly exacerbated Colorado’s crime wave, which is a direct result of criminal-coddling laws. This is not a problem we can afford to leave unaddressed,” Kirkmeyer continued. “We need a

special session now to close this gap before something even worse happens. Constitutional compliance and public safety need not be at conflict. We can achieve both.”

Beyond statutory fixes, Kirkmeyer emphasized the need for greater investment in Colorado’s state institutions, particularly those in Pueblo, which currently house individuals with severe mental illness or developmental disabilities.

“Our state simply does not have enough beds to meet the demand,” she noted. “Because Colorado liberals have not prioritized and have poorly managed our criminal justice system and mental health institutions, dangerous individuals roam our streets and communities. We must prioritize funding for treatment facilities so that those who are incompetent receive care, while those who are dangerous are kept off the streets.”

“This is a crisis of priorities,” she concluded. “Coloradans deserve a government that prioritizes public safety. I am calling on the Governor and my colleagues across the aisle to act immediately by convening a special session of the Legislature.”

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Paid for by Kirkmeyer for Colorado. Marge Klein, Registered Agent.