



Colorado District Attorneys' Council

SB 17-024 – Clarify Intellectual and Developmental Disabilities (IDD) Hearsay Exception

THE ISSUE:

- Five years ago, HB 12-1085 created a hearsay exception for persons with Intellectual and Developmental Disabilities (IDD) involved in certain categories of crimes:
 - unlawful sexual behavior offenses (e.g., sexual assault, sex assault on a child; sexual assault on a child by one in a position of trust; sexual assault on a client by a therapist; incest);
 - human trafficking offenses;
 - child abuse offenses;
 - offenses against persons (e.g., homicides; assaults; kidnapping; stalking); and
 - domestic violence offenses.
- The legislature recognized the importance of allowing out-of-court statements in court proceedings when one of the most vulnerable populations within our community is at issue.
- The hearsay exception does not apply, however, to crimes committed against IDD persons under the “at-risk” crimes statute located in Title 18, Article 6.5.
- The vast majority of offenses involving an IDD victim or witness will be charged under the “at-risk” statute rather than other sections of the law. Therefore, this measure, originally intended to provide protection for these vulnerable victims, often cannot be used as intended in these cases. The current law has a significant gap, which needs to be remedied to ensure that this important hearsay exception can be used in these cases.

THE BILL:

1. SB 024 clarifies the hearsay exception by adding the “at-risk” statute – Article 6.5 of Title 18 - to the list of statutes for which the hearsay exception applies as it pertains to IDD persons.
2. SB 024 does not alter the important protections that currently exist in law which require a hearing prior to the introduction of hearsay evidence for a court to ensure that the time, content and circumstances of the evidence is sufficiently reliable.

THE RESULT:

Maintains the intent of HB 12-1085 by ensuring vulnerable victims and witnesses are protected and their statements are admissible in court under the hearsay exception.