

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 13-0183.01 Michael Dohr x4347

HOUSE BILL 13-1127

HOUSE SPONSORSHIP

McNulty, Stephens, Coram, DelGrosso, Gardner, Holbert, Lawrence, Scott, Szabo, Waller

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Lundberg, Grantham, Scheffel

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRING THE DEFENDANT TO PROVE THE**
102 **AFFIRMATIVE DEFENSE OF NOT GUILTY BY REASON OF INSANITY**
103 **BY CLEAR AND CONVINCING EVIDENCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, when a defendant pleads not guilty by reason of insanity and introduces any evidence of insanity, the prosecution has to prove beyond a reasonable doubt that the defendant was sane. The bill places the burden of proof on the defendant to prove insanity by clear and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

convincing evidence.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 16-8-105.5, **amend**
3 (2) as follows:

4 **16-8-105.5. Procedure after plea for offenses committed on or**
5 **after July 1, 1995.** (2) Upon receiving the report of the sanity
6 examination, the court shall immediately set the case for trial. ~~Every~~
7 ~~person is presumed to be sane; but, once any evidence of insanity is~~
8 ~~introduced, the people have the burden of proving sanity beyond a~~
9 ~~reasonable doubt.~~ THE DEFENDANT HAS THE BURDEN OF PROVING THE
10 AFFIRMATIVE DEFENSE OF NOT GUILTY BY REASON OF INSANITY BY CLEAR
11 AND CONVINCING EVIDENCE.

12 **SECTION 2. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.