



HOUSE BILL No. 5942

September 26, 2000, Introduced by Rep. Jamnick and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 1028 (MCL 330.2028).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1028. (1) When the defendant is ordered to undergo an
2 examination pursuant to section 1026, the center or other facil-
3 ity shall, for the purpose of gathering psychiatric and other
4 information pertinent to the issue of the incompetence of the
5 defendant to stand trial, examine the defendant and consult with
6 defense counsel, and may consult with the prosecutor or other
7 persons. Defense counsel shall make himself OR HERSELF available
8 for consultation with the center or other facility.
9 (2) The examination shall be performed, defense counsel
10 consulted, and a written report submitted to the court,
11 prosecuting attorney, and defense counsel within 60 days ~~of~~

1 AFTER the date of the order. IF THE REQUIREMENTS OF THIS
2 SUBSECTION ARE NOT MET WITHIN THE 60-DAY PERIOD FOR A DEFENDANT
3 WHO IS BEING HELD IN A JAIL OR SIMILAR PLACE OF DETENTION PENDING
4 TRIAL, THE CENTER OR OTHER FACILITY SHALL REQUEST THAT THE SHER-
5 IFF TRANSPORT THE DEFENDANT TO THE FORENSIC CENTER OR TO A PSY-
6 CHIATRIC HOSPITAL OR PSYCHIATRIC UNIT IMMEDIATELY UPON EXPIRATION
7 OF THE 60-DAY PERIOD. THE DEFENDANT SHALL BE HELD IN THAT CENTER
8 OR HOSPITAL UNTIL ALL REQUIREMENTS OF THIS SUBSECTION ARE MET.

9 (3) ~~—(2)—~~ The report shall contain:

10 (a) The clinical findings of the center or other facility.

11 (b) The facts, in reasonable detail, upon which the findings
12 are based, and upon request of the court, defense, or prosecution
13 additional facts germane to the findings.

14 (c) The opinion of the center or other facility on the issue
15 of the incompetence of the defendant to stand trial.

16 (d) If the opinion is that the defendant is incompetent to
17 stand trial, the opinion of the center or other facility on the
18 likelihood of the defendant attaining competence to stand trial,
19 if provided a course of treatment, within the time limit estab-
20 lished by section 1034.

21 (4) ~~—(3)—~~ The opinion concerning competency to stand trial
22 derived from the examination may not be admitted as evidence for
23 any purpose in the pending criminal proceedings, except on the
24 issues to be determined in the hearings required or permitted by
25 sections 1030 and 1040. The foregoing bar of testimony shall not
26 be construed to prohibit the examining qualified clinician from
27 presenting at other stages in the criminal proceedings opinions

1 concerning criminal responsibility, disposition, or other issues
2 if they were originally requested by the court and are
3 available. Information gathered in the course of a prior exami-
4 nation that is of historical value to the examining qualified
5 clinician may be utilized in the formulation of an opinion in any
6 subsequent court ordered evaluation.