

HOUSE BILL No. 5244

November 9, 2017, Introduced by Reps. Kesto, Rendon and Whiteford and referred to the Committee on Law and Justice.

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~~ **UNDER** section 1026, the center or other
3 facility 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. The examination
9 shall be performed, defense counsel consulted, and a written report
10 submitted to the court, prosecuting attorney, and defense counsel

1 by section 1034.

2 **(4)** ~~(3)~~—The opinion concerning competency to stand trial
3 derived from the examination may not be admitted as evidence for
4 any purpose in the pending criminal proceedings, except on the
5 issues to be determined in the hearings required or permitted by
6 sections 1030 and 1040. The foregoing bar of testimony ~~shall~~**DOES**
7 not ~~be construed to~~ prohibit the examining qualified clinician from
8 presenting at other stages in the criminal proceedings opinions
9 concerning criminal responsibility, disposition, or other issues if
10 they were originally requested by the court and are available.
11 Information gathered in the course of a prior examination that is
12 of historical value to the examining qualified clinician may be
13 utilized in the formulation of an opinion in any subsequent court
14 ordered evaluation.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. _____ or House Bill No. 5246 (request no.
19 04648'17) of the 99th Legislature is enacted into law.