

# HOUSE BILL No. 4047

January 25, 2001, Introduced by Rep. Jamnick and referred to the Committee on Criminal Justice.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending section 1026 (MCL 330.2026).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1026. (1) Upon a showing that the defendant may be  
2 incompetent to stand trial, the court shall order the defendant  
3 to undergo an examination by personnel of either the center for  
4 forensic psychiatry or other facility officially certified by the  
5 department of mental health to perform examinations relating to  
6 the issue of incompetence to stand trial. The defendant shall  
7 make himself OR HERSELF available for the examination at the  
8 places and times established by the center or other certified  
9 facility. If the defendant, after being notified, fails to make  
10 himself OR HERSELF available for the examination, the court may

1 order ~~his commitment~~ THE DEFENDANT COMMITTED to the center or  
2 other facility without a hearing.

3 (2) ~~When~~ EXCEPT AS PROVIDED IN SUBSECTION (3), WHEN the  
4 defendant is to be held in a jail or similar place of detention  
5 pending trial, the center or other facility may perform the exam-  
6 ination in the jail or may notify the sheriff to transport the  
7 defendant to the center or other facility for the examination,  
8 and the sheriff shall return the defendant to the jail upon com-  
9 pletion of the examination.

10 (3) IF A DEFENDANT IS HELD IN A JAIL PENDING A DETERMINATION  
11 OF COMPETENCY ONLY, THE COURT SHALL, UPON THE EXPIRATION OF 60  
12 DAYS OF CONFINEMENT, TRANSFER THE DEFENDANT TO THE CENTER OR TO  
13 ANOTHER FACILITY, OTHER THAN A JAIL, WHERE HE OR SHE MAY BE HELD  
14 PENDING EXAMINATION.

15 (4) ~~(3)~~ Except as provided in ~~subsection~~ SUBSECTIONS (1)  
16 AND (3), when the defendant is not to be held in a jail or simi-  
17 lar place of detention pending trial, the court shall commit him  
18 OR HER to the center or other facility only when the commitment  
19 is necessary for the performance of the examination.

20 (5) ~~(4)~~ The defendant shall be released by the center or  
21 other facility upon completion of the examination.