

HOUSE BILL No. 4214

February 8, 2005, Introduced by Rep. Meyer and referred to the Committee on Judiciary.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 1001a, 1020, 1022, 1024, 1026, 1028, 1030,
1031, 1032, 1034, 1036, 1038, 1040, 1042, 1044, and 1050 (MCL
330.2001a, 330.2020, 330.2022, 330.2024, 330.2026, 330.2028,
330.2030, 330.2031, 330.2032, 330.2034, 330.2036, 330.2038,
330.2040, 330.2042, 330.2044, and 330.2050), section 1001a as
amended by 1993 PA 252.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1001a. (1) "Center for forensic psychiatry program" OR
2 "**CENTER**" means that program established by the center for forensic
3 psychiatry to provide services related to all of the following:

1 (a) ~~Persons~~ **INDIVIDUALS** who are alleged to be incompetent to
2 stand trial.

3 (b) ~~Persons~~ **INDIVIDUALS** who are acquitted of criminal
4 charges by reason of insanity.

5 (c) ~~Persons~~ **INDIVIDUALS** who are transferred to the center
6 **FOR FORENSIC PSYCHIATRY** from places of detention or from other
7 state psychiatric hospitals.

8 (2) "Corrections mental health program" means that program of
9 the department of corrections that is responsible for the provision
10 of mental health services to certain prisoners under this chapter.

11 (3) "Hearing committee" means a committee appointed by the
12 corrections mental health program ~~pursuant to~~ **UNDER** section
13 1003c.

14 (4) **"JUVENILE" MEANS AN INDIVIDUAL SUBJECT TO THE JURISDICTION**
15 **OF THE FAMILY DIVISION OF CIRCUIT COURT ACCORDING TO SECTION**
16 **2(A)(1) OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288,**
17 **MCL 712A.2.**

18 (5) ~~-(4)-~~ "Mental health services" means ~~the provision of~~
19 **PROVIDING** mental health care in a protective environment to
20 prisoners with mental illness or mental retardation, including, but
21 not limited to, chemotherapy, ~~and~~ individual **THERAPY**, and group
22 ~~therapies~~ **THERAPY**.

23 (6) ~~-(5)-~~ "Mental illness" means a substantial **THOUGHT OR**
24 **MOOD** disorder ~~of thought or mood~~ that significantly impairs
25 judgment, behavior, capacity to recognize reality, or ability to
26 cope with the ordinary demands of life.

27 (7) ~~-(6)-~~ "Mentally retarded" means significantly subaverage

1 general intellectual functioning that originates during the
2 developmental period and is associated with impairment in adaptive
3 behavior.

4 Sec. 1020. (1) A defendant to a criminal charge ~~shall be~~ OR
5 **A JUVENILE FACING A CHARGE THAT WOULD BE A CRIME IF COMMITTED BY AN**
6 **ADULT IS** presumed competent to stand trial. He OR SHE shall be
7 determined incompetent to stand trial only if he OR SHE is
8 incapable because of his OR HER mental condition, **REGARDLESS OF HIS**
9 **OR HER AGE**, of understanding the nature and object of the
10 proceedings against him OR HER or of assisting in his OR HER
11 defense in a rational manner. The court shall determine the
12 capacity of a defendant OR JUVENILE to assist in his OR HER defense
13 by his OR HER ability to perform the tasks reasonably necessary for
14 him OR HER to perform in the preparation of his OR HER defense and
15 during his OR HER trial.

16 (2) A defendant OR JUVENILE shall not be determined
17 incompetent to stand trial because psychotropic drugs or other
18 medication have been or are being administered under proper medical
19 direction, and even though without ~~such~~ **THE** medication the
20 defendant OR JUVENILE might be incompetent to stand trial. However,
21 ~~when~~ **IF** the defendant OR JUVENILE is receiving such medication,
22 the court may, ~~prior to~~ **BEFORE** making its determination on the
23 issue of incompetence to stand trial, require the filing of a
24 statement by the treating physician that ~~such~~ **THE** medication will
25 not adversely affect the defendant's OR JUVENILE'S understanding of
26 the proceedings or his OR HER ability to assist in his OR HER
27 defense.

1 Sec. 1022. (1) A defendant **OR JUVENILE** who is determined
2 incompetent to stand trial shall not be proceeded against while he
3 **OR SHE** is incompetent.

4 (2) ~~Any~~ **A** pretrial motion may be made by ~~either~~ the
5 defense, **THE JUVENILE, THE JUVENILE'S ATTORNEY, THE GUARDIAN AD**
6 **LITEM, THE COURT,** or **THE** prosecution while a defendant **OR JUVENILE**
7 is incompetent to stand trial, and the issues presented by the
8 motion shall be heard and decided if the presence of the defendant
9 **OR JUVENILE** is not essential for a fair hearing and decision on the
10 motion.

11 (3) ~~When it appears~~ **IF THE COURT DETERMINES** that evidence
12 essential to the case the defense, **JUVENILE,** or prosecution plans
13 to present might not be available at the time of trial, the court
14 shall allow ~~such~~ **THAT** evidence to be taken and preserved.
15 ~~Evidence so taken shall be~~ **THAT EVIDENCE IS** admissible at the
16 trial only if it is not otherwise available **OR BY STIPULATION OF**
17 **THE PARTIES.** Procedures for ~~the~~ taking and preserving ~~of~~
18 evidence under this subsection, and the conditions under which
19 ~~such~~ **THAT** evidence ~~shall be~~ **IS** admissible at trial, shall be
20 provided by court rule.

21 Sec. 1024. The issue of incompetence to stand trial may be
22 raised by the defense, **THE JUVENILE, THE** court, or **THE** prosecution.
23 The time and form of the procedure for raising the issue shall be
24 provided by court rule.

25 Sec. 1026. (1) Upon a showing that the defendant **OR JUVENILE**
26 may be incompetent to stand trial, the court shall order the
27 defendant **OR JUVENILE** to undergo an examination by personnel of

1 either the center for forensic psychiatry or other facility
2 officially certified by the department ~~of mental health~~ to
3 perform examinations relating to the issue of incompetence to stand
4 trial. The defendant **OR JUVENILE** shall make himself **OR HERSELF**
5 available for the examination at the places and times established
6 by the center or other certified facility. If the defendant **OR**
7 **JUVENILE**, after being notified, fails to make himself **OR HERSELF**
8 available for the examination, the court may order his **OR HER**
9 commitment to the center or other facility without a hearing.

10 (2) ~~When~~ **IF** the defendant **OR JUVENILE** is to be held in a
11 jail or similar place of detention pending trial, the center or
12 other facility may perform the examination in the jail **OR SIMILAR**
13 **PLACE OF DETENTION** or may notify the sheriff to transport the
14 defendant **OR JUVENILE** to the center or other facility for the
15 examination. ~~and the~~ **THE** sheriff shall return the defendant **OR**
16 **JUVENILE** to the jail **OR SIMILAR PLACE OF DETENTION** upon completion
17 of the examination.

18 (3) Except as provided in subsection (1), ~~when~~ **IF** the
19 defendant **OR JUVENILE** is not to be held in a jail or similar place
20 of detention pending trial, the court shall commit him **OR HER** to
21 the center or other facility only ~~when~~ **IF** the commitment is
22 necessary ~~for the performance of~~ **TO PERFORM** the examination.

23 (4) The defendant **OR JUVENILE** shall be released by the center
24 or other facility upon completion of the examination.

25 Sec. 1028. (1) ~~When~~ **IF** the defendant **OR JUVENILE** is ordered
26 to undergo an examination ~~pursuant to~~ **UNDER** section 1026, the
27 center or other facility shall, for the purpose of gathering

1 psychiatric and other information pertinent to the issue of the
2 incompetence of the defendant **OR JUVENILE** to stand trial, examine
3 the defendant **OR JUVENILE** and consult with ~~defense~~ counsel **FOR**
4 **THE DEFENSE OR THE JUVENILE**, and may consult with the prosecutor or
5 other persons. ~~Defense counsel~~ **COUNSEL FOR THE DEFENSE OR**
6 **JUVENILE** shall make himself **OR HERSELF** available for consultation
7 with the center or other facility. The examination shall be
8 performed, ~~defense~~ counsel **FOR THE DEFENSE OR JUVENILE** consulted,
9 and a written report submitted to the court, prosecuting attorney,
10 and ~~defense~~ counsel **FOR THE DEFENSE OR JUVENILE** within 60 days of
11 the date of the order.

12 (2) The report shall contain **AT LEAST ALL OF THE FOLLOWING:**

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

14 (b) The facts, in reasonable detail, upon which the findings
15 are based, and upon request of the court, **COUNSEL FOR THE defense**
16 **OR JUVENILE**, or prosecution additional facts ~~germane~~ **RELEVANT** to
17 the findings.

18 (c) The opinion of the center or other facility on the issue
19 of ~~the incompetence of~~ **WHETHER** the defendant **OR JUVENILE IS**
20 **INCOMPETENT** to stand trial.

21 (d) If the opinion is that the defendant **OR JUVENILE** is
22 incompetent to stand trial, the opinion of the center or other
23 facility on the likelihood of the defendant ~~attaining~~ **OR JUVENILE**
24 **WILL ATTAIN** competence to stand trial, if provided a course of
25 treatment, within the time limit established by section 1034.

26 (3) The opinion concerning competency to stand trial derived
27 from the examination may not be admitted as evidence for any

1 purpose in the pending criminal **OR JUVENILE** proceedings, except on
2 the issues to be determined in the hearings required or permitted
3 by sections 1030 and 1040. ~~The foregoing~~ **A** bar of testimony
4 ~~shall not be construed to~~ **UNDER THIS SUBSECTION DOES NOT** prohibit
5 the examining qualified clinician from presenting at other stages
6 in the criminal **OR JUVENILE** proceedings opinions concerning
7 criminal responsibility, disposition, or other issues if they were
8 originally requested by the court and are available. Information
9 gathered in the course of a prior examination that is of historical
10 value to the examining qualified clinician may be utilized in ~~the~~
11 ~~formulation of~~ **FORMULATING** an opinion in ~~any~~ **A** subsequent court
12 ordered evaluation.

13 Sec. 1030. (1) Upon receipt of the written report, the court
14 shall ~~cause~~ **ORDER** the defendant **OR JUVENILE** to appear in court
15 and shall hold a hearing within 5 days or upon the conclusion of
16 the case, proceeding, or other matter then before it, whichever is
17 sooner, unless the defense, **COUNSEL FOR THE JUVENILE**, or **THE**
18 prosecution for good cause requests a delay for a reasonable time.

19 (2) On the basis of the evidence admitted at the hearing, the
20 court shall determine the issue of ~~the incompetence of~~ **WHETHER**
21 the defendant **OR JUVENILE IS INCOMPETENT** to stand trial. If the
22 defendant **OR JUVENILE** is determined incompetent to stand trial, the
23 court shall also determine whether there is a substantial
24 probability that the defendant **OR JUVENILE**, if provided a course of
25 treatment, will attain competence to stand trial within the time
26 limit established by section 1034.

27 (3) The written report shall be admissible as ~~competent~~

1 evidence in the hearing, unless the defense, **COUNSEL FOR THE**
2 **JUVENILE**, or **THE** prosecution objects, but not for any other purpose
3 in the pending criminal **OR JUVENILE** proceeding. The defense,
4 **COUNSEL FOR THE JUVENILE, THE** prosecution, and the court on its own
5 motion may present additional evidence relevant to the issues to be
6 determined at the hearing.

7 (4) If the defendant **OR JUVENILE** is receiving medication and
8 is not determined incompetent to stand trial, the court may, in
9 order to maintain the competence of the defendant **OR JUVENILE** to
10 stand trial, ~~make such orders as it deems~~ **ISSUE AN ORDER THE**
11 **COURT CONSIDERS** appropriate for ~~the~~ continued administration of
12 ~~such~~ medication pending and during trial.

13 Sec. 1031. If the defendant **OR JUVENILE** is determined
14 incompetent to stand trial ~~—~~ and ~~if~~ the court determines that
15 there is not a substantial probability that, if provided a course
16 of treatment, he **OR SHE** will attain competence to stand trial
17 within the time limit established by section 1034, the court may
18 direct a prosecuting attorney to file a petition asserting that the
19 defendant is a person requiring treatment as defined by section 401
20 or meets the criteria for judicial admission as defined by section
21 515 **OR THAT THE JUVENILE IS A MINOR REQUIRING TREATMENT AS DEFINED**
22 **IN SECTION 498B** with the probate court of the defendant's **OR**
23 **JUVENILE'S** county of residence.

24 Sec. 1032. (1) If the defendant **OR JUVENILE** is determined
25 incompetent to stand trial, and if the court determines that there
26 is a substantial probability that, if provided a course of
27 treatment, he **OR SHE** will attain competence to stand trial within

1 the time limit established by section 1034, the court shall order
2 ~~him~~ **THE DEFENDANT OR JUVENILE** to undergo treatment to render him
3 **OR HER** competent to stand trial.

4 (2) The court shall appoint a medical supervisor of the course
5 of treatment. The supervisor may be **THE DEPARTMENT OR** any person or
6 agency willing to supervise the course of treatment. ~~—, or the~~
7 ~~department of mental health.~~

8 (3) The court may commit the defendant **OR JUVENILE** to the
9 custody of the department, ~~—of mental health,—~~ or to the custody of
10 any other inpatient mental health facility if it agrees, only if
11 commitment is necessary for the effective administration of the
12 course of treatment. If the defendant **OR JUVENILE**, absent
13 commitment to the department ~~—of mental health—~~ or other inpatient
14 facility, would otherwise be held in a jail or similar place of
15 detention pending trial, the court may enter an order restricting
16 the ~~defendant in his~~ **DEFENDANT'S OR JUVENILE'S** movements to the
17 buildings and grounds of the facility at which he **OR SHE** is to be
18 treated.

19 Sec. 1034. (1) ~~No~~ **AN** order or combination of orders issued
20 under section 1032 or 1040, or both, shall **NOT** have force and
21 effect for a total period in excess of 15 months or 1/3 of the
22 maximum sentence the defendant could receive if convicted of the
23 charges against him **OR HER, OR 1/3 OF THE MAXIMUM SENTENCE THE**
24 **JUVENILE COULD HAVE RECEIVED IF CONVICTED AS AN ADULT**, whichever is
25 ~~lesser; nor~~ **LESS. AN ORDER OR COMBINATION OF ORDERS ISSUED UNDER**
26 **SECTION 1032 OR 1040, OR BOTH, SHALL NOT HAVE FORCE AND EFFECT**
27 after the charges against the defendant **OR JUVENILE** are dismissed.

1 (2) The court shall provide for notification of defense
2 counsel, **THE JUVENILE'S COUNSEL**, the prosecution, and the medical
3 supervisor of treatment ~~whenever~~ **WHEN** the charges against the
4 defendant **OR JUVENILE** are dismissed and ~~whenever~~ **WHEN** an order
5 whose stated time period has not elapsed is voided by the court.

6 (3) If the defendant **OR JUVENILE** is to be discharged or
7 released because of the expiration of an order or orders under
8 section 1032 or 1040, the supervisor of treatment ~~prior to~~ **BEFORE**
9 the discharge or release may file a petition asserting that the
10 defendant is a person requiring treatment as defined by section
11 401, ~~or~~ **THAT THE DEFENDANT** meets the criteria for judicial
12 admission as defined by section 515, **OR THAT THE JUVENILE IS A**
13 **MINOR REQUIRING TREATMENT AS DEFINED IN SECTION 498B**, with the
14 probate court of the defendant's **OR JUVENILE'S** county of residence.

15 Sec. 1036. The **DEFENDANT'S OR JUVENILE'S** right ~~of the~~
16 ~~defendant~~ to be at liberty pending trial, on bail or otherwise,
17 shall not be impaired because the issue of incompetence to stand
18 trial has been raised, because the defendant **OR JUVENILE** has been
19 determined incompetent to stand trial, or because the defendant **OR**
20 **JUVENILE** has been ordered to undergo treatment to render him **OR HER**
21 competent to stand trial, except to the extent authorized by
22 section 1026 for the purpose of an examination or by section 1032
23 for the purpose of administering a course of treatment.

24 Sec. 1038. (1) The medical supervisor of treatment shall
25 transmit a written report to the court, prosecuting attorney,
26 defense counsel, **THE JUVENILE'S COUNSEL**, and the center for
27 forensic psychiatry **IN EACH OF THE FOLLOWING INSTANCES:**

1 (a) At least once every 90 days from the date of an order
2 issued ~~pursuant to~~ **UNDER** section 1032.

3 (b) ~~Whenever~~ **IF** he **OR SHE** is of the opinion that the
4 defendant **OR JUVENILE** is no longer incompetent to stand trial.

5 (c) ~~Whenever~~ **IF** he **OR SHE** is of the opinion that there is
6 not a substantial probability that the defendant **OR JUVENILE**, with
7 treatment, will attain competence to stand trial within the time
8 limit established by section 1034.

9 (2) The reports shall be admissible ~~pursuant to~~ **UNDER**
10 section 1030(3) and shall contain **ALL OF THE FOLLOWING**:

11 (a) The clinical findings of the supervisor of treatment.

12 (b) The facts, in reasonable detail, upon which the findings
13 are based, and ~~upon request of the court, defense, or prosecution~~
14 **ANY** additional facts ~~germane~~ **RELEVANT** to the findings **IF**
15 **REQUESTED BY COURT, DEFENSE COUNSEL, JUVENILE'S COUNSEL, OR**
16 **PROSECUTION.**

17 (c) The opinion of the supervisor of treatment on the issue of
18 the incompetence of the defendant **OR JUVENILE** to stand trial.

19 (d) If the opinion is that the defendant **OR JUVENILE** is
20 incompetent to stand trial, the opinion of the supervisor of
21 treatment on whether the defendant **OR JUVENILE** has made progress
22 toward attaining competence to stand trial during the course of
23 treatment.

24 Sec. 1040. (1) The court shall forthwith hear and redetermine
25 the issue of the incompetence of the defendant **OR JUVENILE** to stand
26 trial. ~~and, if~~ **IF** the defendant **OR JUVENILE** is redetermined
27 incompetent to stand trial, **THE COURT** shall hear and determine

1 whether the defendant **OR JUVENILE** has made progress toward
 2 attaining competence to stand trial during his **OR HER** course of
 3 treatment, ~~whenever~~ **IF** the court receives a report from the
 4 supervisor of treatment, unless the defense **OR JUVENILE** waives the
 5 hearing, or ~~whenever deemed~~ **WHEN CONSIDERED** appropriate by the
 6 court.

7 (2) Section 1030 ~~shall govern~~ **GOVERNS** hearings held
 8 ~~pursuant to~~ **UNDER** this section.

9 (3) If the defendant **OR JUVENILE** is not redetermined
 10 incompetent to stand trial at a hearing held ~~pursuant to~~ **UNDER**
 11 this section, trial shall commence as soon as practicable. If the
 12 defendant **OR JUVENILE** is redetermined incompetent to stand trial,
 13 and if the court determines that the defendant **OR JUVENILE** has made
 14 progress toward attaining competence to stand trial, the court may
 15 modify or continue any orders it previously issued under section
 16 1032.

17 Sec. 1042. Time spent in custody because of orders issued
 18 ~~pursuant to~~ **UNDER** sections 1026, 1032, and 1040 shall be credited
 19 against any sentence **OR DISPOSITION** imposed on the defendant **OR**
 20 **JUVENILE** in the pending criminal case or in any other case arising
 21 from the same transaction.

22 Sec. 1044. (1) The charges against a defendant **OR JUVENILE**
 23 determined incompetent to stand trial shall be dismissed **IF EITHER**
 24 **OF THE FOLLOWING APPLIES:**

25 (a) ~~When the~~ **THE** prosecutor notifies the court of his **OR HER**
 26 intention not to prosecute the case. ~~or~~

27 (b) Fifteen months ~~after~~ **HAVE ELAPSED SINCE** the date on

1 which the defendant **OR JUVENILE** was originally determined
2 incompetent to stand trial.

3 (2) ~~When~~ **IF** charges are dismissed ~~pursuant to~~ **UNDER**
4 subsection (1), the same charges, or other charges arising from the
5 transaction ~~which~~ **THAT** gave rise to the dismissed charges, shall
6 not subsequently be filed against the defendant **OR JUVENILE**, except
7 as provided in this section.

8 (3) If the charges were dismissed ~~pursuant to~~ **UNDER**
9 subsection (1)(b) and if the crime charged was punishable by a
10 sentence of life imprisonment, **OR, IN THE CASE OF A JUVENILE, WOULD**
11 **HAVE BEEN A CRIME PUNISHABLE BY A SENTENCE OF LIFE IMPRISONMENT IF**
12 **COMMITTED BY AN ADULT**, the prosecutor may at any time petition the
13 court for permission to again file charges. In the case of other
14 charges dismissed ~~pursuant to~~ **UNDER** subsection (1)(b), the
15 prosecutor may, within that period of time after the charges were
16 dismissed equal to 1/3 of the maximum sentence that the defendant
17 could receive on the charges **OR THAT A JUVENILE COULD HAVE RECEIVED**
18 **IF CONVICTED AS AN ADULT**, petition the court for permission to
19 again file charges.

20 (4) The court shall grant permission to again file charges if
21 after a hearing it determines that the defendant **OR JUVENILE** is
22 competent to stand trial. ~~Prior to~~ **BEFORE** the hearing, the court
23 may order the defendant **OR JUVENILE** to be examined by personnel of
24 the center for forensic psychiatry or other qualified person as an
25 outpatient, but may not commit the defendant **OR JUVENILE** to the
26 center or any other facility for the examination.

27 Sec. 1050. (1) The court shall immediately commit ~~any person~~

1 A JUVENILE FOUND NOT RESPONSIBLE BY REASON OF INSANITY FOR AN
2 OFFENSE THAT WOULD BE A CRIME IF COMMITTED BY AN ADULT OR AN
3 INDIVIDUAL who is acquitted of a criminal charge by reason of
4 insanity to the custody of the center for forensic psychiatry, for
5 ~~a period not to exceed~~ NOT MORE THAN 60 days. The court shall
6 forward to the center a full report, in the form of a settled
7 record, of the facts concerning the crime ~~which~~ THAT the patient
8 was found to have committed but of which he OR SHE was acquitted OR
9 FOUND NOT RESPONSIBLE FOR by reason of insanity. The center shall
10 thoroughly examine and evaluate the PATIENT'S present mental
11 condition ~~of the person~~ in order to reach an opinion on whether
12 the ~~person~~ PATIENT meets the criteria of a person requiring
13 treatment or for judicial admission set forth in section 401 or 515
14 OR IS A MINOR REQUIRING TREATMENT AS DEFINED IN SECTION 498B.

15 (2) Within the 60-day period the center shall file a report
16 with the court, prosecuting attorney, JUVENILE'S COUNSEL, and
17 defense counsel. The report shall contain a summary of the crime
18 ~~which~~ THAT the patient committed but of which he OR SHE was
19 acquitted OR FOUND NOT RESPONSIBLE FOR by reason of insanity and an
20 opinion as to whether the ~~person~~ PATIENT meets the criteria of a
21 person requiring treatment or for judicial admission as defined by
22 section 401 or 515 OR IS A MINOR REQUIRING TREATMENT AS DEFINED BY
23 SECTION 498B, and the facts upon which the opinion is based. If the
24 opinion ~~stated is~~ STATES that the ~~person~~ PATIENT is a person
25 requiring treatment, the report shall be accompanied by
26 certificates from 2 physicians, at least 1 of whom shall be a
27 psychiatrist, ~~which~~ THAT conform to the requirements of section

1 ~~400(j)~~ 100C(10). IF THE OPINION STATED IS THAT THE PATIENT IS A
 2 MINOR REQUIRING TREATMENT, THE REPORT SHALL BE ACCOMPANIED BY AN
 3 EVALUATION FROM A PSYCHIATRIST THAT CONFORMS TO THE REQUIREMENTS OF
 4 SECTION 498G.

5 (3) After ~~receipt of~~ **RECEIVING** the report, the court may
 6 direct the prosecuting attorney to file a petition ~~pursuant to~~
 7 **UNDER** section 434 or 516 for an order of hospitalization or an
 8 order of admission to a facility with the probate court of the
 9 ~~person's~~ **PATIENT'S** county of residence or of the county in which
 10 the criminal trial was held. ~~Any certificates~~ **A CERTIFICATE** that
 11 accompanied the report of the center may be filed with the
 12 petition, and ~~shall be~~ **IS** sufficient to cause a hearing to be
 13 held ~~pursuant to~~ **UNDER** section 451 even if ~~they were~~ **THAT**
 14 **CERTIFICATE WAS** not executed within 72 hours ~~of the filing of~~
 15 **AFTER** the petition **WAS FILED. AN EVALUATION SUPPORTING THE OPINION**
 16 **THAT THE PATIENT IS A MINOR REQUIRING TREATMENT IS SUFFICIENT TO**
 17 **SUPPORT HOSPITALIZATION UNDER SECTION 498F.** The report from the
 18 court containing the facts concerning the crime for which he **OR SHE**
 19 was acquitted by reason of insanity shall be admissible in the
 20 hearings. **THE REPORT FROM THE COURT CONTAINING THE FACTS OF THE**
 21 **CRIME FOR WHICH HE OR SHE WAS FOUND NOT RESPONSIBLE BY REASON OF**
 22 **INSANITY SHALL BE CONSIDERED IN DETERMINING WHETHER THE MINOR**
 23 **SHOULD BE HOSPITALIZED AND DETERMINING THE TREATMENT TO BE**
 24 **PROVIDED.**

25 (4) If the report states ~~the opinion~~ that the ~~person~~
 26 **PATIENT** meets the criteria of a person requiring treatment, ~~or~~
 27 **MEETS THE CRITERIA** for judicial admission, **OR MEETS THE CRITERIA OF**

1 **A MINOR REQUIRING HOSPITALIZATION**, and if a petition is to be filed
 2 ~~pursuant to~~ **UNDER** subsection (3), the center may retain the
 3 ~~person~~ **PATIENT** pending a hearing on the petition **OR THE MINOR'S**
 4 **TRANSFER TO A HOSPITAL**. If a petition is not to be filed **OR THE**
 5 **PROSECUTION DOES NOT SEEK HOSPITALIZATION OF THE PATIENT AS A MINOR**
 6 **REQUIRING TREATMENT**, the prosecutor shall notify the center in
 7 writing. The center, upon ~~receipt of~~ **RECEIVING** the notification,
 8 shall ~~cause the person to be discharged~~ **DISCHARGE THE PATIENT**.

9 (5) The release provisions of sections 476 to 479 ~~of this act~~
 10 ~~shall~~ apply to a person found to have committed a crime by a court
 11 or jury, but who is acquitted by reason of insanity, except that a
 12 person shall not be discharged or placed on leave without first
 13 being evaluated and recommended for discharge or leave by the
 14 department's program for forensic psychiatry. ~~—, and authorized~~
 15 **AUTHORIZED** leave or absence from the hospital may be extended for a
 16 period of 5 years.

17 Enacting section 1. This amendatory act does not take effect
 18 unless all of the following bills of the 93rd Legislature are
 19 enacted into law:

20 (a) Senate Bill No.____ or House Bill No. 4213(request no.
 21 00138'05).

22 (b) Senate Bill No.____ or House Bill No. 4215(request no.
 23 00140'05).