

# HOUSE BILL No. 5484

September 29, 2009, Introduced by Reps. Segal, Haase, Lipton, Bauer, Byrnes, Crawford and Liss and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
(MCL 710.21 to 712A.32) by adding section 18r to chapter XIIIA.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XIIIA

SEC. 18R. (1) THE CONSTITUTIONAL PROTECTIONS AGAINST SELF-  
INCRIMINATION APPLY TO ALL COMPETENCY EVALUATIONS.

(2) ANY EVIDENCE OR STATEMENT OBTAINED DURING A COMPETENCY  
EVALUATION IS NOT ADMISSIBLE IN ANY PROCEEDING TO DETERMINE THE  
JUVENILE'S GUILT OR INNOCENCE UNLESS THE JUVENILE PRESENTS EVIDENCE  
THAT IS INTENDED TO REBUT THE PRESUMPTION OF CRIMINAL  
RESPONSIBILITY.

(3) A STATEMENT THAT A JUVENILE MAKES DURING A COMPETENCY  
EVALUATION OR EVIDENCE RESULTING FROM THE STATEMENT CONCERNING ANY  
OTHER EVENT OR TRANSACTION IS NOT ADMISSIBLE IN ANY PROCEEDING TO  
DETERMINE THE JUVENILE'S GUILT OR INNOCENCE OF ANY OTHER CHARGES THAT

1 ARE BASED ON THOSE EVENTS OR TRANSACTIONS.

2 (4) A STATEMENT THAT THE JUVENILE MAKES DURING A COMPETENCY  
3 EVALUATION MAY NOT BE USED FOR ANY PURPOSE WITHOUT THE WRITTEN  
4 CONSENT OF THE JUVENILE OR THE JUVENILE'S GUARDIAN. THE JUVENILE OR  
5 THE JUVENILE'S GUARDIAN MUST HAVE AN OPPORTUNITY TO CONSULT WITH  
6 HIS OR HER ATTORNEY BEFORE GIVING CONSENT.

7 (5) AFTER THE CASE PROCEEDS TO ADJUDICATION OR THE JUVENILE IS  
8 FOUND TO BE UNABLE TO REGAIN COMPETENCE, THE COURT SHALL ORDER ALL  
9 OF THE REPORTS THAT ARE SUBMITTED ACCORDING TO SECTIONS 18N TO 18Q  
10 OF THIS CHAPTER TO BE SEALED. THE COURT MAY ORDER THAT THE REPORTS  
11 BE OPENED ONLY AS FOLLOWS:

12 (A) FOR FURTHER COMPETENCY OR CRIMINAL RESPONSIBILITY  
13 EVALUATIONS.

14 (B) FOR STATISTICAL ANALYSIS.

15 (C) IF THE RECORDS ARE CONSIDERED TO BE NECESSARY TO ASSIST IN  
16 MENTAL HEALTH TREATMENT ORDERED ACCORDING TO THE MENTAL HEALTH  
17 CODE, 1974 PA 258, MCL 330.1001 TO 330.2106.

18 (D) FOR DATA GATHERING.

19 (E) FOR SCIENTIFIC STUDY OR OTHER LEGITIMATE RESEARCH.

20 (6) IF THE COURT ORDERS REPORTS TO BE OPEN FOR THE PURPOSES OF  
21 STATISTICAL ANALYSIS, DATA GATHERING, OR SCIENTIFIC STUDY ACCORDING  
22 TO SUBSECTION (5), THE REPORTS SHALL REMAIN CONFIDENTIAL.

23 (7) ANY STATEMENT THAT A JUVENILE MAKES DURING A COMPETENCY  
24 EVALUATION, OR ANY EVIDENCE RESULTING FROM THAT STATEMENT, IS NOT  
25 SUBJECT TO DISCLOSURE.

26 Enacting section 1. This amendatory act does not take effect  
27 unless all of the following bills of the 95th Legislature are

1 enacted into law:

2 (a) Senate Bill No.\_\_\_\_ or House Bill No. 5485(request no.  
3 04134'09).

4 (b) Senate Bill No.\_\_\_\_ or House Bill No. 5487(request no.  
5 04135'09).

6 (c) Senate Bill No.\_\_\_\_ or House Bill No. 5488(request no.  
7 04136'09).

8 (d) Senate Bill No.\_\_\_\_ or House Bill No. 5489(request no.  
9 04137'09).

10 (e) Senate Bill No.\_\_\_\_ or House Bill No. 5486(request no.  
11 04138'09).