

# HOUSE BILL No. 5488

September 29, 2009, Introduced by Reps. Bauer, Haase, Segal, Lipton, Byrnes, Crawford, Liss and Kowall 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 180 to chapter XIIA.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XIIA

SEC. 180. (1) A COMPETENCY EVALUATION ORDERED UNDER SECTION 18N OF THIS CHAPTER SHALL BE CONDUCTED BY A QUALIFIED EXAMINER. THE QUALIFIED EXAMINER SHALL MAKE A FINDING AS TO WHETHER THE JUVENILE IS COMPETENT TO PROCEED. THE COURT HAS THE FINAL DETERMINATION AS TO WHO IS A QUALIFIED EXAMINER.

(2) THIS SECTION DOES NOT PROHIBIT ANY PARTY FROM RETAINING THE PARTY'S OWN QUALIFIED EXAMINER TO CONDUCT ADDITIONAL EVALUATIONS AT THE PARTY'S OWN EXPENSE.

(3) THE COMPETENCY EVALUATION SHALL BE CONDUCTED IN THE LEAST RESTRICTIVE ENVIRONMENT. THERE IS A PRESUMPTION IN FAVOR OF CONDUCTING A COMPETENCY EVALUATION WHILE THE JUVENILE REMAINS IN THE

1 CUSTODY OF A PARENT OR LEGAL GUARDIAN, UNLESS REMOVAL FROM THE HOME  
2 IS NECESSARY FOR THE BEST INTERESTS OF THE JUVENILE, FOR REASONS OF  
3 PUBLIC SAFETY, OR BECAUSE THE PARENT OR GUARDIAN HAS REFUSED TO  
4 COOPERATE IN THE COMPETENCY EVALUATION PROCESS.

5 Enacting section 1. This amendatory act does not take effect  
6 unless all of the following bills of the 95th Legislature are  
7 enacted into law:

8 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5485(request no.  
9 04134'09).

10 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5487(request no.  
11 04135'09).

12 (c) Senate Bill No. \_\_\_\_ or House Bill No. 5489(request no.  
13 04137'09).

14 (d) Senate Bill No. \_\_\_\_ or House Bill No. 5486(request no.  
15 04138'09).

16 (e) Senate Bill No. \_\_\_\_ or House Bill No. 5484(request no.  
17 04139'09).