

Legislative Analysis



INSANITY DEFENSE: ALLOW FOR MISDEMEANOR

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House Bill 4882 as introduced
Sponsor: Rep. Peter J. Lucido
Committee: Law and Justice
Complete to 10-16-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4882 would amend the Code of Criminal Procedure to include a misdemeanor case in the type of cases for which the defense of insanity may be asserted by a defendant. The bill would take effect 90 days after enactment.

MCL 768.20a

BACKGROUND INFORMATION:

Currently, if a defendant in a *felony* case intends to offer testimony to establish his or her insanity at the time of an alleged offense, the defendant must provide written notice of the intention to assert the defense of insanity to the court and prosecuting attorney not less than 30 days before the date set for the trial (or at another time if the court so directed). Upon receipt of the notice, the court then orders a defendant to undergo examination by personnel at the Center for Forensic Psychiatry (CFP); this can be done at the facility or at a jail if the defendant is jailed pending trial. Operated by the Michigan Department of Health and Human Services, the 210-bed psychiatric facility provides diagnostic services to the criminal justice system and psychiatric treatment for criminal defendants adjudicated incompetent to stand trial or acquitted by not guilty by reason of insanity.

A defendant may secure an independent psychiatric evaluation at his or her own expense. The county may be ordered by the court to pay for such an exam for an indigent defendant. Statements made by a defendant to personnel at the CFP or an independent examiner are not admissible in court and do not have probative value on issues other than the defendant's mental illness or insanity at the time of the alleged offense. A written report of the examination findings must be submitted to the prosecuting attorney and defense counsel. The prosecuting attorney has a specified time frame in which to file and serve upon the defendant a notice of rebuttal of the defense of insanity.

FISCAL IMPACT:

House Bill 4882 would have an indeterminate fiscal impact on the judiciary and local court funding units depending on the number of defendants in misdemeanor cases that choose to file and serve the court and prosecuting attorneys with notices of intent to assert insanity defenses. The fiscal impact would depend on to what degree court caseloads and related administrative costs are affected.

The bill also would have an indeterminate fiscal impact on the Department of Health and Human Services but would likely require increased staffing at the Center for Forensic Psychiatry. The fiscal impact would depend on the change in the number of court orders that require the Center for Forensic Psychiatry to conduct a forensic evaluation.

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