

# HOUSE BILL NO. 5326

January 09, 2020, Introduced by Reps. Hammoud, Calley, Brann, Wozniak and LaFave and referred to the Committee on Judiciary.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending a division heading of chapter 10 and section 1050 (MCL 330.2050); and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       ~~DISPOSITION OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY~~  
2       Sec. 1050. ~~(1) The court shall immediately commit any person~~  
3       ~~who is acquitted of a criminal charge by reason of insanity to the~~  
4       ~~custody of the center for forensic psychiatry, for a period not to~~



1 ~~exceed 60 days. The court shall forward to the center a full~~  
2 ~~report, in the form of a settled record, of the facts concerning~~  
3 ~~the crime which the patient was found to have committed but of~~  
4 ~~which he was acquitted by reason of insanity. The center shall~~  
5 ~~thoroughly examine and evaluate the present mental condition of the~~  
6 ~~person in order to reach an opinion on whether the person meets the~~  
7 ~~criteria of a person requiring treatment or for judicial admission~~  
8 ~~set forth in section 401 or 515.~~

9 ~~(2) Within the 60-day period the center shall file a report~~  
10 ~~with the court, prosecuting attorney, and defense counsel. The~~  
11 ~~report shall contain a summary of the crime which the patient~~  
12 ~~committed but of which he was acquitted by reason of insanity and~~  
13 ~~an opinion as to whether the person meets the criteria of a person~~  
14 ~~requiring treatment or for judicial admission as defined by section~~  
15 ~~401 or 515, and the facts upon which the opinion is based. If the~~  
16 ~~opinion stated is that the person is a person requiring treatment,~~  
17 ~~the report shall be accompanied by certificates from 2 physicians,~~  
18 ~~at least 1 of whom shall be a psychiatrist, which conform to the~~  
19 ~~requirements of section 400(j).~~

20 ~~(3) After receipt of the report, the court may direct the~~  
21 ~~prosecuting attorney to file a petition pursuant to section 434 or~~  
22 ~~516 for an order of hospitalization or an order of admission to a~~  
23 ~~facility with the probate court of the person's county of residence~~  
24 ~~or of the county in which the criminal trial was held. Any~~  
25 ~~certificates that accompanied the report of the center may be filed~~  
26 ~~with the petition, and shall be sufficient to cause a hearing to be~~  
27 ~~held pursuant to section 451 even if they were not executed within~~  
28 ~~72 hours of the filing of the petition. The report from the court~~  
29 ~~containing the facts concerning the crime for which he was~~



1 ~~acquitted by reason of insanity shall be admissible in the~~  
2 ~~hearings.~~

3 (1) Following a petition filed by the prosecuting attorney in  
4 accordance with section 20a(13) of the code of criminal procedure,  
5 1927 PA 175, MCL 768.20a, the probate court shall hold a hearing in  
6 the manner required for a hearing under chapter 4. The petition  
7 filed under section 434 and the facts concerning the crime for  
8 which he or she was acquitted by reason of insanity are admissible  
9 in the hearing. A certificate that accompanied the report of the  
10 center for forensic psychiatry required under section 20a(7) of the  
11 code of criminal procedure, 1927 PA 175, MCL 768.20a, must be filed  
12 with the petition, and is sufficient to cause a hearing to be held  
13 under section 451 even if the certificate was not executed within  
14 72 hours after the filing of the petition. The prosecuting attorney  
15 shall attach a copy of the report from the center for forensic  
16 psychiatry and a copy of the settled record that was forwarded to  
17 the center by the circuit court to the petition filed according to  
18 section 434.

19 (2) ~~(4)~~ If the report states the opinion that the person meets  
20 the criteria of a person requiring treatment, ~~or for judicial~~  
21 ~~admission,~~ and if a petition is **ordered** to be filed, pursuant to  
22 ~~subsection (3),~~ the center may retain the person pending a hearing  
23 on the petition. ~~If a petition is not to be filed, the prosecutor~~  
24 ~~shall notify the center in writing. The center, upon receipt of the~~  
25 ~~notification, shall cause the person to be discharged.~~ **If the center**  
26 **for forensic psychiatry determines that the person is not a risk to**  
27 **self or others, the center for forensic psychiatry may discharge**  
28 **the person to his or her residence pending the hearing.**

29 (3) ~~(5)~~ The release provisions of sections 476 to 479 ~~of this~~



1 ~~act shall~~ apply to a person found to have committed a crime by a  
2 court or jury, but who is acquitted by reason of insanity, except  
3 that a person shall not be discharged or placed on leave without  
4 first being evaluated and recommended for discharge or leave by the  
5 department's program for forensic psychiatry, and authorized leave  
6 or absence from the hospital may be extended for a period of 5  
7 years.

8       **(4) Following the hearing on the petition for involuntary**  
9 **treatment under chapter 4, the court may order any and all mental**  
10 **health treatment as provided in section 468, including, but not**  
11 **limited to, hospitalization and assisted outpatient treatment.**

12       **(5) The department shall not discharge a person from a status**  
13 **of not guilty by reason of insanity while the person is under a**  
14 **probate court order for mental health treatment.**

15       Enacting section 1. Sections 1020 to 1044 and 1060 to 1074 of  
16 the mental health code, 1974 PA 258, MCL 330.2020 to 330.2044 and  
17 330.2060 to 330.2074, are repealed.

18       Enacting section 2. This amendatory act takes effect 90 days  
19 after the date it is enacted into law.

20       Enacting section 3. This amendatory act does not take effect  
21 unless Senate Bill No. \_\_\_\_ or House Bill No. 5325 (request no.  
22 01417'19) of the 100th Legislature is enacted into law.

