

**MENTAL HEALTH CODE (EXCERPT)**  
**Act 258 of 1974**

**330.2028 Consultations; report; admissibility of evidence.**

Sec. 1028. (1) When the defendant is ordered to undergo an examination pursuant to section 1026, the center or other facility shall, for the purpose of gathering psychiatric and other information pertinent to the issue of the incompetence of the defendant to stand trial, examine the defendant and consult with defense counsel, and may consult with the prosecutor or other persons. Defense counsel shall make himself available for consultation with the center or other facility. The examination shall be performed, defense counsel consulted, and a written report submitted to the court, prosecuting attorney, and defense counsel within 60 days of the date of the order.

(2) The report shall contain:

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

(b) The facts, in reasonable detail, upon which the findings are based, and upon request of the court, defense, or prosecution additional facts germane to the findings.

(c) The opinion of the center or other facility on the issue of the incompetence of the defendant to stand trial.

(d) If the opinion is that the defendant is incompetent to stand trial, the opinion of the center or other facility on the likelihood of the defendant attaining competence to stand trial, if provided a course of treatment, within the time limit established by section 1034.

(3) The opinion concerning competency to stand trial derived from the examination may not be admitted as evidence for any purpose in the pending criminal proceedings, except on the issues to be determined in the hearings required or permitted by sections 1030 and 1040. The foregoing bar of testimony shall not be construed to prohibit the examining qualified clinician from presenting at other stages in the criminal proceedings opinions concerning criminal responsibility, disposition, or other issues if they were originally requested by the court and are available. Information gathered in the course of a prior examination that is of historical value to the examining qualified clinician may be utilized in the formulation of an opinion in any subsequent court ordered evaluation.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1975, Act 179, Eff. Aug. 6, 1975.