STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JANET OLSZEW
DIRECTOR

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Dear Chairman Meadows and House of Judiciary Committee:

It is the understanding of the Department of Community Health (DCH) that these Juvenile Competency Bills were developed to ensure due process for Juveniles. These bills do not meet this outcome and may jeopardize a Juvenile's ability to receive fair and proper due process. The Department acknowledges that more needs to be done to protect the due process rights of Juveniles but these bills will not accomplish that goal. In addition, there is a substantial shift of responsibilities to DCH that will result in increased costs without the allocation of sufficient funding and resources. It is for those reasons that DCH does not support House Bills 5482 and House Bill 5175. Here are some of the Department's concerns with House Bill 5482 and House Bill 5175:

1. There is an assumption that DCH has the expertise at the Forensic Center to develop a model, oversee credentials of restoration providers and the overall restorative process. Although there is expertise and resources allocated to address adult competency, there is not sufficient expertise and resources to address juvenile competency in the anticipated number of children for whom competency exams would most certainly be requested.
2. In House Bill 5175, DCH is required to develop a model to certify other professionals other than psychiatrist or psychologist who typically provide competency exams. DCH would need to develop a model and certification perimeters. There are three major issues regarding this: expertise to develop model, funding to develop model and most importantly, exploration to ensure this will not jeopardize current licensing perimeters of social workers and other professionals listed to participate in assessment that are beyond their scope of practice.
3. There is significant fiscal impact to DCH. The bills state that the court can order restoration as well as mental health treatment. It is not clear that Community Mental Health providers would be expected to participate in restoration activities, it is explicit that the Judge could order mental health treatment. The mandate of the court is to ensure community safety while the mandate of mental health is treatment. This bill allows the court to mandate the mental health system to provide mental health services yet does not have that expertise to determine eligibility for mental health treatment. This has significant fiscal implication if the child does not meet the mental health's definition of Serious Emotional Disturbance as well as for general fund and Medicaid service resources.