

By Senator Sebesta

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A bill to be entitled
An act relating to the criminal defense of
insanity; creating s. 775.027, F.S.; providing
requirements for establishment of insanity
defense; defining "mental infirmity, disease,
or defect"; specifying conditions that do not
constitute legal insanity; providing that the
defendant has the burden of proving the
insanity defense by clear and convincing
evidence; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 775.027, Florida Statutes, is
created to read:

775.027 Insanity defense.--

(1) AFFIRMATIVE DEFENSE.--All persons are presumed to
be sane. It is an affirmative defense to a criminal
prosecution that, at the time of the commission of the acts
constituting the offense, the defendant was insane. Insanity
is established when:

(a) The defendant had a mental infirmity, disease, or
defect; and

(b) Because of this condition, the defendant:

1. Did not know what he or she was doing or its
consequences; or

2. Although the defendant knew what he or she was
doing and its consequences, the defendant did not know that
what he or she was doing was wrong.

1 The term "mental infirmity, disease, or defect" as used in
2 this subsection does not include disorders that result from
3 acute voluntary intoxication or withdrawal from alcohol or
4 drugs, character defects, psychosexual disorders, or
5 irresistible impulse. Conditions that do not constitute legal
6 insanity include, but are not limited to, momentary, temporary
7 conditions arising from the pressure of the circumstances;
8 moral decadence; an abnormality that is manifested only by
9 criminal conduct; diminished capacity; or depravity or passion
10 growing out of anger, jealousy, revenge, hatred, or other
11 motives in a person who does not suffer from a mental
12 infirmity, disease, or defect. Mental infirmity, disease, or
13 defect does not constitute a defense of insanity except as
14 provided in this subsection.

15 (2) BURDEN OF PROOF.--The defendant has the burden of
16 proving the defense of insanity by clear and convincing
17 evidence.

18 Section 2. This act shall take effect upon becoming a
19 law.

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22 SENATE SUMMARY

23 Prescribes requirements for the defense of insanity.
24 Imposes on the defendant the burden of proving the
25 defense by clear and convincing evidence.
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