

By the Committee on Criminal Justice and Senator Sebesta

307-1942-99

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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; 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.

The term "mental infirmity, disease, or defect" as used in  
this subsection does not include disorders that result from

1 acute voluntary intoxication or withdrawal from alcohol or  
2 drugs, character defects, psychosexual disorders, or  
3 irresistible impulse. Conditions that do not constitute legal  
4 insanity include, but are not limited to, moral decadence; an  
5 abnormality that is manifested only by criminal conduct; or  
6 diminished capacity.

7 (2) BURDEN OF PROOF.--The defendant has the burden of  
8 proving the defense of insanity by clear and convincing  
9 evidence.

10 Section 2. This act shall take effect upon becoming a  
11 law.

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
14 COMMITTEE SUBSTITUTE FOR  
15 Senate Bill 2188

- 16 - Deletes the phrase, "momentary, temporary conditions  
17 arising from the pressure of the circumstances," from  
18 the list of conditions that do not include legal  
19 insanity.  
20 - Deletes the phrase, "depravity or passion growing out of  
21 anger, jealousy, revenge, hatred, or other motives in a  
22 person who does not suffer from a mental infirmity,  
23 disease or defect" from the list of conditions that do  
24 not include legal insanity.  
25 - Deletes the phrase, "mental infirmity, disease, or  
26 defect does not constitute a defense of insanity except  
27 as provided in this subsection," to correct a technical  
28 deficiency.  
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