

By Representative J. Miller

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

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

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

16 775.027 Insanity defense.--

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

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

24 (b) Because of this condition, the defendant:

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

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

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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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21 HOUSE SUMMARY

22 Provides requirements for establishment of insanity
23 defense. Defines "mental infirmity, disease, or defect."
24 Specifies conditions that do not constitute legal
25 insanity. Provides that the defendant has the burden of
26 proving the insanity defense by clear and convincing
evidence.