

By the Committee on Crime & Punishment and Representative
J. Miller

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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, moral decadence, an
7 abnormality that is manifested only by criminal conduct, or
8 diminished capacity. Mental infirmity, disease, or defect does
9 not constitute a defense of insanity except as provided in
10 this subsection.

11 (2) BURDEN OF PROOF.--The defendant has the burden of
12 proving the defense of insanity by clear and convincing
13 evidence.

14 Section 2. This act shall take effect upon becoming a
15 law.

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