

By Representative Bilirakis

1 A bill to be entitled
2 An act relating to the criminal defense of
3 insanity; creating s. 775.027, F.S.;
4 prescribing criteria for establishment of
5 insanity defense; providing that the defendant
6 has the burden of proving the insanity defense
7 by clear and convincing evidence; providing an
8 effective date.

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

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

14 775.027 Insanity defense.--

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

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

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

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

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

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29 The term "mental infirmity, disease, or defect" as used in
30 this subsection does not include disorders that result from
31 acute voluntary intoxication or withdrawal from alcohol or

1 drugs, character defects, psychosexual disorders, or
2 irresistible impulse. Mental infirmity, disease, or defect
3 does not constitute a defense of insanity except as provided
4 in this subsection.

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

8 Section 2. This act shall take effect upon becoming a
9 law.

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12 SENATE SUMMARY

13 Prescribes requirements for the defense of insanity.
14 Imposes on the defendant the burden of proving the
15 defense by clear and convincing evidence.

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