

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 voluntary intoxication or withdrawal from alcohol or drugs,

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