

Senate Bill No. 268

An act relating to the criminal defense of insanity; creating s. 775.027, F.S.; prescribing criteria for establishment of insanity defense; 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.

Mental infirmity, disease, or defect does not constitute a defense of insanity except as provided in this subsection.

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

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

Approved by the Governor June 19, 2000.

Filed in Office Secretary of State June 19, 2000.