

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

Senate Bill 785

Sponsor: Senator Doug Cruce

Committee: Criminal Justice and Urban Affairs

Date Completed: 9-10-90

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SUMMARY OF SENATE BILL 785 as introduced 2-6-90:

The bill would amend the Code of Criminal Procedure to specify that it would be an "affirmative defense" to a prosecution for a criminal offense that the defendant was legally insane at the time of the commission of the offense, and that the defendant would have the burden of proving an insanity defense by clear and convincing evidence. (According to Black's Law Dictionary, an "affirmative defense" is a matter that, assuming the complaint to be true, constitutes a defense to the complaint.)

The bill also specifies that a person would be legally insane if, as a result of mental illness or mental retardation, as those terms are defined in the Mental Health Code, the person was "unable to appreciate the nature and quality or the wrongfulness of his or her acts". This would replace the current provision, which states that a person is legally insane if, as a result of mental illness or mental retardation, the person "lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirement of law". Under the bill, mental illness or mental retardation would not otherwise constitute a defense.

The Mental Health Code defines "mental illness" as "a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life". "Mentally retarded" means "significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior".

MCL 768.21a

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: F. Sanchez

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S.B. 785 (9-10-90)