

HOUSE BILL No. 5820

May 29, 1990, Introduced by Rep. Dunaskiss and referred to the Committee on Judiciary.

A bill to amend section 21a of chapter VIII of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," being section 768.21a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 21a of chapter VIII of Act No. 175 of
2 the Public Acts of 1927, being section 768.21a of the Michigan
3 Compiled Laws, is amended to read as follows:

CHAPTER VIII

4
5 Sec. 21a. (1) IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION
6 FOR A CRIMINAL OFFENSE THAT THE DEFENDANT, AT THE TIME OF THE
7 COMMISSION OF THE ACTS CONSTITUTING THE OFFENSE, WAS LEGALLY
8 INSANE. A person is legally insane if, as a result of mental
9 illness as defined in section 400a of THE MENTAL HEALTH CODE, Act
10 No. 258 of the Public Acts of 1974, being section 330.1400a of

1 the Michigan Compiled Laws, or as a result of mental retardation
2 as defined in section ~~500(G)~~ 500(H) of Act No. 258 of the
3 Public Acts of 1974, being section 330.1500 of the Michigan
4 Compiled Laws, ~~that person lacks substantial capacity either~~
5 THE PERSON IS UNABLE to appreciate the NATURE AND QUALITY OR THE
6 wrongfulness of his ~~conduct or to conform his conduct to the~~
7 ~~requirements of law~~ OR HER ACTS. MENTAL ILLNESS OR MENTAL
8 RETARDATION DOES NOT OTHERWISE CONSTITUTE A DEFENSE.

9 (2) A person who ~~is~~ WAS under the influence of voluntarily
10 consumed or injected alcohol or controlled substances at the time
11 of his OR HER alleged offense shall not ~~thereby be deemed~~ FOR
12 THAT REASON BE CONSIDERED to have been legally insane.

13 (3) THE DEFENDANT HAS THE BURDEN OF PROVING THE DEFENSE OF
14 INSANITY BY CLEAR AND CONVINCING EVIDENCE.