

# HOUSE BILL No. 6244

November 5, 1998, Introduced by Rep. Jelinek and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 21a of chapter VIII (MCL 768.21a), as amended by 1994 PA 56.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### CHAPTER VIII

2       Sec. 21a. (1) It is an affirmative defense to a prosecution  
3 for a criminal offense that the defendant was legally insane when  
4 he or she committed the acts constituting the offense. An indi-  
5 vidual is legally insane if, as a result of mental illness as  
6 defined in section ~~400a~~ 1001A of the mental health code, ~~Act~~  
7 ~~No. 258 of the Public Acts of 1974, being section 330.1400a of~~  
8 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.2001A, or as a  
9 result of being mentally retarded as defined in section ~~500(h)~~  
10 1001A of the mental health code, ~~Act No. 258 of the Public Acts~~

1 of 1974, being section 330.1500 of the Michigan Compiled Laws  
2 1974 PA 258, MCL 330.2001A, that person lacks substantial capac-  
3 ity either to appreciate the nature and quality or the wrongful-  
4 ness of his or her conduct or to conform his or her conduct to  
5 the requirements of the law. Mental illness or being mentally  
6 retarded does not otherwise constitute a defense of legal  
7 insanity.

8 (2) An individual who was under the influence of voluntarily  
9 consumed or injected alcohol or controlled substances at the time  
10 of his or her alleged offense is not considered to have been  
11 legally insane solely because of being under the influence of the  
12 alcohol or controlled substances.

13 (3) AN INDIVIDUAL WHO RECEIVED A PRESCRIPTION FOR MEDICATION  
14 TO CONTROL OR REDUCE THE EFFECTS OF A MENTAL ILLNESS OR MENTAL  
15 RETARDATION AND FAILED TO TAKE THAT MEDICATION AS PRESCRIBED, OR  
16 DISCONTINUED THAT MEDICATION WITHOUT THE PRIOR APPROVAL OF A PHY-  
17 SICIAN, IS NOT CONSIDERED TO HAVE BEEN LEGALLY INSANE.

18 (4) ~~(3)~~ The defendant has the burden of proving the  
19 defense of insanity by a preponderance of the evidence.