

# SENATE BILL No. 18

January 24, 1991, Introduced by Senator CRUCE 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:

### 4 CHAPTER VIII

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~~  
2 ~~retardation~~ BEING MENTALLY RETARDED as defined in section  
3 ~~500(g)~~ 500(H) of Act No. 258 of the Public Acts of 1974, being  
4 section 330.1500 of the Michigan Compiled Laws, ~~that person~~  
5 ~~lacks substantial capacity either~~ THE PERSON IS UNABLE to appre-  
6 ciate the NATURE AND QUALITY OR THE wrongfulness of his ~~conduct~~  
7 ~~or to conform his conduct to the requirements of law~~ OR HER  
8 ACTS. MENTAL ILLNESS OR BEING MENTALLY RETARDED DOES NOT OTHER-  
9 WISE CONSTITUTE A DEFENSE.

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

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