



**House  
Legislative  
Analysis  
Section**

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**DEFINITION OF "INSANITY"**

**House Bill 4243  
Sponsor: Rep. Allen Lowe  
Committee: Judiciary**

**Complete to 2-7-94**

**A SUMMARY OF HOUSE BILL 4243 AS INTRODUCED 2-11-93**

The bill would amend the Code of Criminal Procedure with regard to the use of the insanity defense. At present, when a defense of insanity is raised, the prosecutor must prove beyond a reasonable doubt that the defendant was not insane; the bill would shift the burden of proof to the defendant, requiring that insanity be proved by clear and convincing evidence.

The definition of legal insanity would be revised, as well. Elements requiring a person to be either mentally ill or mentally retarded as defined by the Mental Health Code would be retained; however, where the definition speaks to whether a person "lacks substantial capacity" to appreciate "the wrongfulness" of his or her conduct or to conform his or her conduct to the requirements of the law, the bill would instead require that the person be "unable" to appreciate either the "nature and quality" or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law. Mental illness or being mentally retarded would not otherwise constitute a defense of legal insanity.

The bill would specify that being legally insane at the time an offense was committed would be an affirmative defense to a criminal prosecution for that offense.

**MCL 768.21a**

**House Bill 4243 (2-7-94)**