SENATE BILL No. 202

January 26, 1993, Introduced by Senators DINGELL, WELBORN, EMMONS, GEAKE, BOUCHARD, DI NELLO and ARTHURHULTZ 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) ~~A person~~ IT IS AN AFFIRMATIVE DEFENSE TO A

6 PROSECUTION FOR A CRIMINAL OFFENSE THAT THE DEFENDANT WAS LEGALLY

7 INSANE WHEN HE OR SHE COMMITTED THE ACTS CONSTITUTING THE

8 OFFENSE. AN INDIVIDUAL is legally insane if, as a result of

9 mental illness as defined in section 400a of THE MENTAL HEALTH

10 CODE, Act No. 258 of the Public Acts of 1974, being section

1 330.1400a of the Michigan Compiled Laws, or as a result of

2 ~~mental retardation~~ BEING MENTALLY RETARDED as defined in sec-

3 tion ~~500(g)~~ 500(H) of THE MENTAL HEALTH CODE, Act No. 258 of

4 the Public Acts of 1974, being section 330.1500 of the Michigan

5 Compiled Laws, ~~that person lacks substantial capacity either~~

6 THE INDIVIDUAL IS UNABLE to appreciate the NATURE AND QUALITY OR

7 THE wrongfulness of his OR HER conduct or to conform his OR HER

8 conduct to the requirements of THE law. MENTAL ILLNESS OR BEING

9 MENTALLY RETARDED DOES NOT OTHERWISE CONSTITUTE A DEFENSE OF

10 LEGAL INSANITY.

11   (2) ~~A person~~ AN INDIVIDUAL who ~~is~~ WAS under the influ-

12 ence of voluntarily consumed or injected alcohol or controlled

13 substances at the time of his OR HER alleged offense ~~shall~~ IS

14 not ~~thereby be deemed~~ FOR THAT REASON CONSIDERED to have been

15 legally insane.

16   (3) THE DEFENDANT HAS THE BURDEN OF PROVING THE DEFENSE OF

17 INSANITY BY CLEAR AND CONVINCING EVIDENCE.