



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

The Committee on Model Criminal Jury Instructions has adopted the following amended model criminal jury instruction, effective August 2016.

ADOPTED

The Committee has adopted an amended instruction, M Crim JI 7.11, for use in cases where the defendant has raised an insanity defense. The amended instruction removes repetitive language and over-emphasis of a defendant's duty to prove the defense.

[AMENDED] M Crim JI 7.11 Legal Insanity; Mental Illness; Intellectual Disability; Burden of Proof

(1) The defendant says that [he / she] is not guilty by reason of insanity. A person is legally insane if, as a result of mental illness or intellectual disability, [he / she] was incapable of understanding the wrongfulness of [his / her] conduct, or was unable to conform [his / her] conduct to the requirements of the law. The burden is on the defendant to show that [he / she] was legally insane.

(2) Before considering the insanity defense, you must be convinced beyond a reasonable doubt that the defendant committed the [crime / crimes] charged by the prosecutor. If you are not, your verdict should simply be not guilty of [that / those] offense[s]. If you are convinced that the defendant committed an offense, you should consider the defendant's claim that [he / she] was legally insane.

(3) In order to establish that [he / she] was legally insane, the defendant must prove two elements by a preponderance of the evidence. A preponderance of the evidence means that [he / she] must prove that it is more likely than not that each of the elements is true.

(4) First, the defendant must prove that [he / she] was mentally ill and/or intellectually disabled.¹

(a) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or the ability to cope with the ordinary demands of life.

(b) "Intellectual disability" means significantly subaverage intellectual functioning that appeared before the defendant was 18 years old and impaired two or more of [his / her] adaptive skills.²

(5) Second, the defendant must prove that, as a result of [his / her] mental illness and/or intellectual disability, [he / she] either lacked substantial capacity to appreciate the nature and wrongfulness of [his / her] act, or lacked substantial capacity to conform [his / her] conduct to the requirements of the law.

(6) You should consider these elements separately. If you find that the defendant has proved both of these elements by a preponderance of the evidence, then you must find [him / her] not guilty by reason of insanity. If the defendant has failed to prove either or both elements, [he / she] was not legally insane.

Use Note

An individual who was under the influence of voluntarily consumed or injected alcohol or controlled substances at the time of his or her alleged offense is not considered to have been legally insane solely because of being under the influence of the alcohol or controlled substances. MCL 768.21a(2).

¹ This paragraph may be modified if the defendant is claiming only one aspect of this element.

² The court may provide the jury with a definition of “adaptive skills” where appropriate. The phrase is defined in MCL 330.1100a(3) and means skills in 1 or more of the following areas:

- (a) Communication.
- (b) Self-care.
- (c) Home living.
- (d) Social skills.
- (e) Community use.
- (f) Self-direction.
- (g) Health and safety.
- (h) Functional academics.
- (i) Leisure.
- (j) Work.

History

M Crim JI 7.11 (formerly CJI2d 7.11) was CJI 7:8:02A-7:8:06, 7:8:13.

The instruction was modified in June, 1994 to reflect the effect of 1994 PA 56, amending MCL 768.21a, which changed the burden of proof and requires the defendant to establish legal insanity by a preponderance of the evidence.

The instruction was modified in January 2015 to reflect a statutory change from the phrase “mental retardation” to “intellectual disability,” and to conform the definitional language to that used in the statute.

The instruction was modified in August 2016 to remove repetitive language and over-emphasis of a defendant’s duty to prove the defense.

Reference Guide

Statutes

MCL 330.1100a(3), 330.1100b(15), .1400(g), 768.20a, .21, .21a

Case Law

People v McRunels, 237 Mich App 168, 603 NW2d 95 (1999); *People v Munn*, 25 Mich App 165, 181 NW2d 28 (1970); *People v Deneweth*, 14 Mich App 604, 165 NW2d 910 (1968).