



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

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by March 1, 2025. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes amending M Crim JI 7.11 (Legal Insanity) to add a missing alternative method of satisfying the “substantial capacity” prong of the insanity defense under MCL 768.21a(1). Deletions are in ~~strike-through~~, and new language is underlined.

**[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 appreciating the nature and quality of [his / her] conduct, or 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.<sup>1</sup>

(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.<sup>2</sup>

(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 quality of [his / her] act, or lacked substantial capacity to appreciate the 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.