



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2294

Introduced 2/14/2008, by Sen. A. J. Wilhelmi

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/6-2

from Ch. 38, par. 6-2

Amends the Criminal Code of 1961. Provides that a defendant who intends to assert a defense that he or she was insane at the time of the alleged offense must so notify the State in writing within the time provided for filing a pretrial motion, or at any later time the court sets, and file a copy of the notice with the clerk of the court. Provides that a defendant who fails to do so cannot rely on an insanity defense. Provides that the court may, for good cause, allow the defendant to file the notice late, grant additional trial-preparation time, or make other appropriate orders. Provides that if a defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on either: (1) the issue of guilt or (2) the issue of punishment in a capital case, the defendant must, within the time provided for filing a pretrial motion or at any later time the court sets but not less than 60 days before trial, notify the State in writing of this intention and file a copy of the notice with the clerk of the court. Provides that the court may, for good cause, allow the defendant to file the notice late, grant the parties additional trial-preparation time, or make other appropriate orders. Effective immediately.

LRB095 19002 RLC 45174 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 6-2 as follows:

6 (720 ILCS 5/6-2) (from Ch. 38, par. 6-2)

7 Sec. 6-2. Insanity.

8 (a) A person is not criminally responsible for conduct if  
9 at the time of such conduct, as a result of mental disease or  
10 mental defect, he lacks substantial capacity to appreciate the  
11 criminality of his conduct.

12 (b) The terms "mental disease or mental defect" do not  
13 include an abnormality manifested only by repeated criminal or  
14 otherwise antisocial conduct.

15 (c) A person who, at the time of the commission of a  
16 criminal offense, was not insane but was suffering from a  
17 mental illness, is not relieved of criminal responsibility for  
18 his conduct and may be found guilty but mentally ill.

19 (d) For purposes of this Section, "mental illness" or  
20 "mentally ill" means a substantial disorder of thought, mood,  
21 or behavior which afflicted a person at the time of the  
22 commission of the offense and which impaired that person's  
23 judgment, but not to the extent that he is unable to appreciate

1 the wrongfulness of his behavior.

2 (e) When the defense of insanity has been presented during  
3 the trial, the burden of proof is on the defendant to prove by  
4 clear and convincing evidence that the defendant is not guilty  
5 by reason of insanity. However, the burden of proof remains on  
6 the State to prove beyond a reasonable doubt each of the  
7 elements of each of the offenses charged, and, in a jury trial  
8 where the insanity defense has been presented, the jury must be  
9 instructed that it may not consider whether the defendant has  
10 met his burden of proving that he is not guilty by reason of  
11 insanity until and unless it has first determined that the  
12 State has proven the defendant guilty beyond a reasonable doubt  
13 of the offense with which he is charged.

14 (f) Notice of an insanity defense. A defendant who intends  
15 to assert a defense that he or she was insane at the time of the  
16 alleged offense must so notify the State in writing within the  
17 time provided for filing a pretrial motion, or at any later  
18 time the court sets, and file a copy of the notice with the  
19 clerk of the court. A defendant who fails to do so cannot rely  
20 on an insanity defense. The court may, for good cause, allow  
21 the defendant to file the notice late, grant additional  
22 trial-preparation time, or make other appropriate orders.

23 (g) Notice of expert evidence of a mental condition. If a  
24 defendant intends to introduce expert evidence relating to a  
25 mental disease or defect or any other mental condition of the  
26 defendant bearing on either: (1) the issue of guilt or (2) the

1 issue of punishment in a capital case, the defendant must,  
2 within the time provided for filing a pretrial motion or at any  
3 later time the court sets but not less than 60 days before  
4 trial, notify the State in writing of this intention and file a  
5 copy of the notice with the clerk of the court. The court may,  
6 for good cause, allow the defendant to file the notice late,  
7 grant the parties additional trial-preparation time, or make  
8 other appropriate orders.

9 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.