

ASSEMBLY, No. 1088

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen **CORODEMUS** and **AZZOLINA**

1 AN ACT establishing a verdict of "guilty but mentally ill," amending
2 N.J.S.2C:1-14 and supplementing Title 2C of the New Jersey
3 Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. N.J.S.2C:1-14 is amended to read as follows:

9 2C:1-14. In this code, unless a different meaning plainly is
10 required:

11 a. "Statute" includes the Constitution and a local law or ordinance
12 of a political subdivision of the State;

13 b. "Act" or "action" means a bodily movement whether voluntary
14 or involuntary;

15 c. "Omission" means a failure to act;

16 d. "Conduct" means an action or omission and its accompanying
17 state of mind, or, where relevant, a series of acts and omissions;

18 e. "Actor" includes, where relevant, a person guilty of an omission;

19 f. "Acted" includes, where relevant, "omitted to act";

20 g. "Person," "he," and "actor" include any natural person and,
21 where relevant, a corporation or an unincorporated association;

22 h. "Element of an offense" means (1) such conduct or (2) such
23 attendant circumstances or (3) such a result of conduct as

24 (a) Is included in the description of the forbidden conduct in the
25 definition of the offense;

26 (b) Establishes the required kind of culpability;

27 (c) Negatives an excuse or justification for such conduct;

28 (d) Negatives a defense under the statute of limitations; or

29 (e) Establishes jurisdiction or venue;

30 i. "Material element of an offense" means an element that does not
31 relate exclusively to the statute of limitations, jurisdiction, venue or to
32 any other matter similarly unconnected with (1) the harm or evil,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 incident to conduct, sought to be prevented by the law defining the
2 offense, or (2) the existence of a justification or excuse for such
3 conduct;

4 j. "Reasonably believes" or "reasonable belief" designates a belief
5 the holding of which does not make the actor reckless or criminally
6 negligent;

7 k. "Offense" means a crime, a disorderly persons offense or a petty
8 disorderly persons offense unless a particular section in this code is
9 intended to apply to less than all three;

10 l. (Deleted by amendment, P.L.1991, c.91).

11 m. "Amount involved," "benefit," and other terms of value. Where
12 it is necessary in this act to determine value, for purposes of fixing the
13 degree of an offense, that value shall be the fair market value at the
14 time and place of the operative act.

15 n. "Motor vehicle" shall have the meaning provided in R.S.39:1-1.

16 o. "Unlawful taking of a motor vehicle" means conduct prohibited
17 under N.J.S.2C:20-10 when the means of conveyance taken, operated
18 or controlled is a motor vehicle.

19 p. "Research facility" means any building, laboratory, institution,
20 organization, school, or person engaged in research, testing
21 educational or experimental activities, or any commercial or academic
22 enterprise that uses warm-blooded or cold-blooded animals for food
23 or fiber production, agriculture, research, testing, experimentation or
24 education. A research facility includes, but is not limited to, any
25 enclosure, separately secured yard, pad, pond, vehicle, building
26 structure or premises or separately secured portion thereof.

27 q. "Mentally ill" means a substantial disorder of thought, mood or
28 behavior which afflicted a person at the time of the commission of a
29 criminal offense and which impaired that person's judgment, but not to
30 the extent that he did not know the nature and quality of the act he
31 was doing, or, if he did know it, that he did not know what he was
32 doing was wrong.

33 (cf: P.L.1995, c.20, s.1)

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35 2. (New section) In rendering a verdict in a criminal case, the
36 court may find the defendant:

37 a. Not guilty;

38 b. Guilty;

39 c. Not guilty by reason of insanity; or

40 d. Guilty but mentally ill.

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42 3. (New section) a. A person who, at the time of the commission
43 of a criminal offense, was not insane but was mentally ill, is not
44 relieved of criminal responsibility for his conduct and may be found
45 guilty but mentally ill.

46 b. If a defendant is found guilty but mentally ill at the time of the

1 offense, or enters a plea to that effect that is accepted by the court, the
2 court shall sentence him in the same manner as a defendant found
3 guilty of that offense.

4 c. If a defendant who is found guilty but mentally ill at the time of
5 the offense is committed by the court to the custody of the Department
6 of Corrections, he shall undergo a psychiatric evaluation and be given
7 such treatment as is psychiatrically indicated for his mental illness.
8 Treatment shall be provided by the Department of Corrections in
9 conjunction with the Department of Human Services in accordance
10 with the plan to provide mental health services to inmates in
11 State-owned or operated correctional facilities pursuant to P.L.1986,
12 c.71 (C.30:4-82.1).

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14 4. This act shall take effect immediately.

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17 STATEMENT

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19 This bill would establish a new verdict in criminal cases of "guilty
20 but mentally ill." Currently at least twelve other states provide for
21 this verdict, which functions as a fourth alternative to the verdicts of
22 "guilty," "not guilty," and "not guilty by reason of insanity."

23 Currently, a person is not guilty by reason of insanity if he
24 committed the criminal offense, but at the time of the offense labored
25 under such a defect of reason, from disease of the mind, as not to
26 know the nature and quality of the act he was doing, or if he did know
27 it, that he did not know what he was doing was wrong. A person
28 found not guilty by reason of insanity is not considered to be criminally
29 responsible for the crime. Depending on the defendant's potential
30 dangerousness to the community or to himself, the court has the
31 option to release him with or without supervision or to commit him to
32 a mental health facility to be treated as a person civilly committed.

33 Under this bill, a defendant would be found "guilty but mentally ill"
34 if he had a substantial disorder of thought, mood, or behavior which
35 afflicted him at the time of the commission of the criminal offense and
36 which impaired his judgment, but not to the extent that he did not
37 know the nature and quality of the act he was doing, or, if he did know
38 it, that he did not know what he was doing was wrong. Upon
39 sentencing, the defendant would be subject to the same term of
40 imprisonment or other disposition as any other defendant convicted of
41 the crime. If the defendant is sentenced to imprisonment, he would
42 undergo psychiatric evaluation and be given such treatment as is
43 psychiatrically indicated for his mental illness. Treatment would be
44 provided by the Department of Corrections in conjunction with the
45 Department of Human Services.

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3 Creates new verdict of "guilty but mentally ill."