

CRIMINAL LAW

REQUIREMENTS: ACT + INTENT = RESULT = CRIME = DEFENSES (AIRCDS)

Abbreviation key: A. = Amendment

ACT (ACTUS REUS)

1. **Definition:** A voluntary act
2. **Actus reus** is satisfied by either:
 - A. **Volitional act**
 - i. Thoughts alone are insufficient to establish the actus reus element
 - (a) Some kind of voluntary action in addition to thoughts is required for a valid criminal prosecution
 - (b) A legislative canon criminalizes thoughts that it disagrees with (*B.A.M. v. City of St. Paul*)
 - i. Once an act is established, thoughts can be used by the prosecution as evidence of motive or intent
 - (a) The punishment for a battery offense can be enhanced because of the defendant's biased motive of selecting the victim on account of the victim's race (*Rice v. Mitchell*)
 - B. **An omission to act** where there is a legal duty to act

OMISSION

1. Legal duty to act created by:
 - A. **Statute**
 - i. Good Samaritan statutes mandate a duty to assist if one can without causing danger or peril to any person; violation of a Good Samaritan statute typically constitutes a misdemeanor offense with a fine as punishment
 - B. **Contract**
 - i. A contract with a nursing home or private party to provide care failure to provide the food and medical care that was contractually agreed on can establish the actus reus element necessary to prosecute the caregiver whose omission to act caused the death of a patient (*Commonwealth v. Pettibone*)
 - C. **Voluntary assumption of care and seduction**
 - D. **Special relationship**
 - i. A parent-child relationship creates a duty to provide food, shelter, and protection for the child; a parent's failure to protect a child from physical abuse can establish the actus reus element necessary to prosecute the parent, even if the parent did not do any of the physical abuse, based on the parent's omission to affirmatively act to protect the child (*Commonwealth v. Howard*)
 - ii. A stranger does not have a duty to protect a child from physical abuse unless specifically required by a state statute
 - E. **Wrongful creation of peril**
- NOTE:** Failure to act where there is no duty to act does not create criminal liability

VOLUNTARINESS OF ACTS

1. **Defenses to the actus reus element**
 - A. **Involuntary**
 - i. Individual is drunk inside a private home, and the police come into the home and forcibly carry the individual out to the street and charge the individual with drunkenness in public; the defense of involuntariness is valid (*Marlin v. State*)
 - B. **Ratherless**
 - C. **Unconscious**
 - i. One who becomes unconscious and causes harm due to a sudden unexpected medical condition will have a valid defense that neither act nor involuntary and does not satisfy the requisite actus reus element, making the harm caused noncriminal; a sudden seizure, heart attack, stroke, or other disabling attack would qualify in this category (*People v. Decker*)
 - ii. However, when an individual becomes unconscious due to a known medical condition, the involuntary defense may be invalid, as the disregard of the known risk of the possible unconsciousness negates the concept of the unconsciousness being involuntary; an epileptic with a known history of seizures who takes the risk of driving, becomes unconscious, and causes harm would not have the benefit of the involuntary defense (*People v. Decker*)
 - iii. Unconsciousness due to voluntary intoxication is not a valid defense that the act that caused harm was involuntary; a drunk driver who becomes unconscious behind the wheel of a car cannot benefit from the involuntary defense and is still criminally responsible for the harm caused by the reckless disregard of the consequences of the act of driving while intoxicated (*People v. Decker*)
 - D. **Involuntarily intoxicated**
 - E. **Asleep (i.e., sleepwalking)**
 - F. **Convulsive (i.e., epilepsy)**

NOTE: Not every act in the criminal transaction must be voluntary, but the crime must include a voluntary act to satisfy actus reus

INTENT (MENS REA)

SPECIFIC INTENT

1. **Common law jurisdictions** draw a distinction between specific and general intent crimes; **Model Penal Code (MPC) jurisdictions** do not
2. **Requirements**
 - A. **Requires** the doing of an act and doing it with specific intent to cause social harm
 - i. Must have the general intent to do the act
 - ii. Must have the specific intent to achieve the consequences of the crime, and
 - iii. The actus reus and the specific intent must occur at the same time
 - (a) The requisite mens rea for 1st degree murder requires proof of a "specific intent to kill" (premeditated and deliberate killing of a human being), weighing the consequences, and specifically intending death
3. **Examples of common law specific intent crimes**
 - A. 1st degree murder (premeditated and deliberate)
 - B. Attempt
 - C. Solicitation
 - D. Conspiracy
 - E. Assault
 - F. Robbery and larceny
 - i. Proof of "conditional" intent to harm satisfies statutory requirement (*Holloway v. U.S.*)
 - G. Forgery
 - H. False pretenses
 - i. Statutory language must include "intent to defraud" (*Bates v. U.S.*)
4. **Unsubstantiated**

GENERAL INTENT

1. **Requirements**
 - A. All crimes require general intent
 - B. The general intent must occur at the same time as the actus reus
2. **Examples of common law general intent crimes**
 - A. Rape
 - B. Battery
 - C. Involuntary manslaughter
3. **Transferred intent**
 - A. When the defendant intends a harmful result to Victim A and, in trying to carry out that intent, causes a harmful result to Victim B
 - i. Some courts apply transferred intent both to a completed crime and to an attempted crime
 - (a) Defendant A may be convicted of attempted murder of intended Victim B, who was not hit, and intentional murder of unintended Victim C (*People v. Scott*)
 - ii. Transferred intent is also applied to affirm the 1st degree murder convictions where both the unintended victim and intended were killed (*Libert v. U.S.*)
 - iii. Some courts do not apply transferred intent to attempted crimes
 - (a) If Defendant A shoots to kill Victim B, wounding B and Victim C, Defendant A may be charged with attempted murder of B but not C (*People v. Graham Bell v. State*)

MODEL PENAL CODE (MPC) MENTAL STATES

1. In response to widespread criticism of the specific and general intent requirements for being ambiguous and difficult to apply to crimes with more than two elements, the drafters of the MPC eliminated the use of specific and general intent in favor of more specific definitions of culpability
2. **Requirements of culpability**
 - A. **Purposely**
 - i. Conscious object to engage in conduct or cause result
 - (a) "Willfully" requires proof that defendant knew conduct was unlawful, not that defendant also knew of federal statute requirement (*Byrum v. U.S.*)
 - ii. Awareness of attendant circumstances or belief they exist
 - B. **Knowingly**
 - i. Aware of nature and conduct or existence of circumstances
 - ii. Aware conduct will be practically certain to cause result
 - C. **Recklessly**
 - i. Conscious disregard of substantial and unjustifiable risk
 - ii. Gross deviation from law-abiding standard of conduct
 - D. **Negligently**
 - i. Should be aware of substantial and unjustifiable risk
 - ii. Gross deviation from reasonable person's standard of care
3. **Innocence** [MPC §2.06]
 - A. Under MPC, any intoxication is a defense if it negates the mens rea of the crime
 - B. However, if it is a crime of **recklessness**, a defendant's intoxication is immaterial and unconsciousness of the risk due to voluntary intoxication will not negate mens rea [MPC §2.06(2)]
 - C. Involuntary and pathological intoxication can be affirmative defenses if intoxication-caused loss of mental capacity was equivalent to temporary insanity [MPC §2.06(4)]

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