CHAPTER 2

CRIMINAL LIABILITY; ELEMENTS OF CRIMES

§31. Voluntary conduct

(REPEALED)

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1999, c. 195, §1 (RP).

§32. Elements of crimes defined

A person may not be convicted of a crime unless each element of the crime is proved by the State beyond a reasonable doubt. "Element of the crime" means the forbidden conduct; the attendant circumstances specified in the definition of the crime; the intention, knowledge, recklessness or negligence as may be required; and any required result. [PL 2007, c. 475, §9 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 475, §9 (AMD).

§33. Result as an element; causation

1. Unless otherwise provided, when causing a result is an element of a crime, causation may be found when the result would not have occurred but for the conduct of the defendant, operating either alone or concurrently with another cause.
[PL 2017, c. 432, Pt. C, §1 (NEW).]

2. In cases in which concurrent causation is generated as an issue, the defendant's conduct must also have been sufficient by itself to produce the result.
[PL 2017, c. 432, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2017, c. 432, Pt. C, §1 (RPR).

§34. Culpable state of mind as an element

1. A person is not guilty of a crime unless that person acted intentionally, knowingly, recklessly or negligently, as the law defining the crime specifies, with respect to each other element of the crime, except as provided in subsection 4. When the state of mind required to establish an element of a crime is specified as "willfully," "corruptly," "maliciously" or by some other term importing a state of mind, that element is satisfied if, with respect thereto, the person acted intentionally or knowingly.
[PL 1999, c. 23, §2 (AMD).]

2. When the definition of a crime specifies the state of mind sufficient for the commission of that crime, but without distinguishing among the elements thereof, the specified state of mind applies to all the other elements of the crime, except as provided in subsection 4.
[PL 1999, c. 23, §2 (AMD).]

3. When the law provides that negligence is sufficient to establish an element of a crime, that element is also established if, with respect thereto, a person acted intentionally, knowingly or recklessly. When the law provides that recklessness is sufficient to establish an element of a crime, that element is also established if, with respect thereto, a person acted intentionally or knowingly. When the law provides that acting knowingly is sufficient to establish an element of the crime, that element is also established if, with respect thereto, a person acted intentionally.
[PL 1981, c. 324, §14 (NEW).]

4. Unless otherwise expressly provided, a culpable mental state need not be proved with respect to:

A. Any fact that is solely a basis for sentencing classification; [PL 1999, c. 23, §2 (AMD).]

B. Any element of the crime as to which it is expressly stated that it must "in fact" exist; [PL 1999, c. 23, §2 (AMD).]

C. Any element of the crime as to which the statute expressly provides that a person may be guilty without a culpable state of mind as to that element; [PL 1999, c. 23, §2 (NEW).]

D. Any element of the crime as to which a legislative intent to impose liability without a culpable state of mind as to that element otherwise appears; [PL 1999, c. 23, §2 (NEW).]

E. Any criminal statute as to which it is expressly stated to be a "strict liability crime" or otherwise expressly reflects a legislative intent to impose criminal liability without proof by the State of a culpable mental state with respect to any of the elements of the crime; or [PL 1999, c. 23, §2 (NEW).]

F. Any criminal statute as to which a legislative intent to impose liability without a culpable state of mind as to any of the elements of the crime otherwise appears. [PL 1999, c. 23, §2 (NEW).]
[PL 1999, c. 23, §2 (AMD).]

4-A. As used in this section, "strict liability crime" means a crime that, as legally defined, does not include a culpable mental state element with respect to any of the elements of the crime and thus proof by the State of a culpable state of mind as to that crime is not required.
[PL 1999, c. 23, §2 (NEW).]

5.

[PL 1999, c. 23, §2 (RP).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1981, c. 470, §B6 (AMD). PL 1999, c. 23, §2 (AMD).

§35. Definitions of culpable states of mind

1. "Intentionally."

A. A person acts intentionally with respect to a result of the person's conduct when it is the person's conscious object to cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts intentionally with respect to attendant circumstances when the person is aware of the existence of such circumstances or believes that they exist. [PL 2007, c. 173, §8 (AMD).]
[PL 2007, c. 173, §8 (AMD).]

2. "Knowingly."

A. A person acts knowingly with respect to a result of the person's conduct when the person is aware that it is practically certain that the person's conduct will cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts knowingly with respect to attendant circumstances when the person is aware that such circumstances exist. [PL 2007, c. 173, §8 (AMD).]
[PL 2007, c. 173, §8 (AMD).]

3. "Recklessly."

A. A person acts recklessly with respect to a result of the person's conduct when the person consciously disregards a risk that the person's conduct will cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts recklessly with respect to attendant circumstances when the person consciously disregards a risk that such circumstances exist. [PL 2007, c. 173, §8 (AMD).]

C. For purposes of this subsection, the disregard of the risk, when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation. [PL 2007, c. 173, §8 (AMD).]

[PL 2007, c. 173, §8 (AMD).]

4. "Criminal negligence."

A. A person acts with criminal negligence with respect to a result of the person's conduct when the person fails to be aware of a risk that the person's conduct will cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts with criminal negligence with respect to attendant circumstances when the person fails to be aware of a risk that such circumstances exist. [PL 2007, c. 173, §8 (AMD).]

C. For purposes of this subsection, the failure to be aware of the risk, when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation. [PL 2007, c. 173, §8 (AMD).]

[PL 2007, c. 173, §8 (AMD).]

5. "Culpable." A person acts culpably when the person acts with the intention, knowledge, recklessness or criminal negligence as is required.

[PL 2007, c. 173, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 173, §8 (AMD).

§36. Ignorance or mistake

1. Evidence of ignorance or mistake as to a matter of fact or law may raise a reasonable doubt as to the existence of a required culpable state of mind.

[PL 1981, c. 324, §14 (NEW).]

2. Ignorance or mistake as to a matter of fact or law is a defense only if the law provides that the state of mind established by such ignorance or mistake constitutes a defense.

[PL 1981, c. 324, §14 (NEW).]

3. Although ignorance or mistake would otherwise afford a defense to the crime charged, the defense is not available if the defendant would be guilty of another crime had the situation been as the defendant supposed.

[PL 2007, c. 173, §9 (AMD).]

4. It is an affirmative defense if the defendant engages in conduct that the defendant believes does not legally constitute a crime if:

A. The statute violated is not known to the defendant and has not been published or otherwise reasonably made available prior to the conduct alleged; or [PL 1981, c. 324, §14 (NEW).]

B. The defendant acts in reasonable reliance upon an official statement, afterward determined to be invalid or erroneous, contained in:

(1) A statute, ordinance or other enactment;

(2) A final judicial decision, opinion or judgment;

(3) An administrative order or grant of permission; or

(4) An official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the statute defining the crime. This subsection does not impose any duty to make any such official interpretation. [PL 1981, c. 324, §14 (NEW).]

[PL 2007, c. 173, §10 (AMD).]

5. A mistaken belief that facts exist which would constitute an affirmative defense is not an affirmative defense, except as otherwise expressly provided.

[PL 1981, c. 324, §14 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 173, §§9, 10 (AMD).

§37. Intoxication

1. Except as provided in subsection 2, evidence of intoxication may raise a reasonable doubt as to the existence of a required culpable state of mind.

[PL 1981, c. 324, §14 (NEW).]

2. When recklessness establishes an element of the offense, if a person, due to self-induced intoxication, is unaware of a risk of which the person would have been aware had the person not been intoxicated, such unawareness is immaterial.

[PL 2007, c. 173, §11 (AMD).]

3. As used in this section:

A. "Intoxication" means a disturbance of mental capacities resulting from the introduction of alcohol, drugs or similar substances into the body; and [PL 1981, c. 324, §14 (NEW).]

B. "Self-induced intoxication" means intoxication caused when a person intentionally or knowingly introduces into the person's body substances that the person knows or ought to know tend to cause intoxication, unless the person introduces them pursuant to medical advice or under such duress as would afford a defense to a charge of crime. [PL 2007, c. 173, §12 (AMD).]

[PL 2007, c. 173, §12 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 173, §§11, 12 (AMD).

§38. Mental abnormality

Evidence of an abnormal condition of the mind may raise a reasonable doubt as to the existence of a required culpable state of mind. [PL 1981, c. 324, §14 (NEW).]

An actor does not suffer from an abnormal condition of the mind based solely on the discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the actor or in which the actor and victim dated or had a romantic or sexual relationship. [PL 2019, c. 462, §1 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2019, c. 462, §1 (AMD).

§39. Insanity

1. A defendant is not criminally responsible by reason of insanity if, at the time of the criminal conduct, as a result of mental disease or defect, the defendant lacked substantial capacity to appreciate the wrongfulness of the criminal conduct.

[PL 2005, c. 263, §5 (AMD).]

2. As used in this section, "mental disease or defect" means only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality. An abnormality manifested only by repeated criminal conduct or excessive use of alcohol, drugs or similar substances, in and of itself, does not constitute a mental disease or defect.
[PL 1985, c. 796, §5 (AMD).]

3. Lack of criminal responsibility by reason of insanity is an affirmative defense.
[PL 2005, c. 263, §6 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1985, c. 796, §5 (AMD). PL 2005, c. 263, §§5,6 (AMD).

§40. Procedure upon plea of not guilty coupled with plea of not criminally responsible by reason of insanity

1. When the defendant enters a plea of not guilty together with a plea of not criminally responsible by reason of insanity, the defendant shall also elect whether the trial must be in 2 stages as provided for in this section, or a unitary trial in which both the issues of guilt and of insanity are submitted simultaneously to the jury. At the defendant's election, the jury must be informed that the 2 pleas have been made and that the trial will be in 2 stages.
[PL 2005, c. 263, §7 (AMD).]

2. If a 2-stage trial is elected by the defendant, there must be a separation of the issue of guilt from the issue of insanity in the following manner.

A. The issue of guilt must be tried first and the issue of insanity tried only if the jury returns a verdict of guilty. If the jury returns a verdict of not guilty, the proceedings must terminate. [PL 2005, c. 263, §7 (AMD).]

B. Evidence of mental disease or defect, as defined in section 39, subsection 2, is not admissible in the guilt or innocence phase of the trial for the purpose of establishing insanity. Such evidence must be admissible for that purpose only in the 2nd phase following a verdict of guilty. [PL 2005, c. 263, §7 (AMD).]

[PL 2005, c. 263, §7 (AMD).]

3. The issue of insanity must be tried before the same jury as tried the issue of guilt. Alternate jurors who were present during the first phase of the trial but who did not participate in the deliberations and verdict thereof may be substituted for jurors who did participate. The defendant may elect to have the issue of insanity tried by the court without a jury.
[PL 2005, c. 263, §7 (AMD).]

4. If the jury in the first phase returns a guilty verdict, the trial must proceed to the 2nd phase. The defendant and the State may rely upon evidence admitted during the first phase or they may recall witnesses. Any evidence relevant to insanity is admissible. The order of proof must reflect that the defendant has the burden of establishing the defendant's lack of criminal responsibility by reason of insanity. The jury shall return a verdict that the defendant is criminally responsible or not criminally responsible by reason of insanity. If the defendant is found criminally responsible, the court shall sentence the defendant according to law.
[PL 2005, c. 263, §7 (AMD).]

5. This section does not apply to cases tried before the court without a jury.
[PL 1981, c. 324, §14 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1985, c. 796, §6 (AMD). PL 2005, c. 263, §7 (AMD).

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