



D.C. Criminal Code Reform Commission
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To: Code Revision Advisory Group (Advisory Group)
From: Criminal Code Reform Commission (CCRC)
Date: March 13, 2017
Re: Advisory Group Memo #7, March 13, 2017 Compilation of CCRC
Recommendations Under Development—Statutory Text Only

This Memorandum provides copies of the latest draft statutory language recommended by the D.C. Criminal Code Reform Commission (CCRC) in its prior reports to its Advisory Group. The Memorandum contains only draft statutory language, not the accompanying commentary that provides additional information.

The purpose of this Memorandum is to provide an easy reference for the reform recommendations that have previously been circulated for comment. The Memorandum contains no new information.

§ 22A-101 SHORT TITLE AND EFFECTIVE DATE.

- (a) SHORT TITLE. This title may be cited as the “Revised Criminal Code.”
- (b) EFFECTIVE DATE. This title takes effect at 12:01 am on [A DATE AT LEAST ONE YEAR FROM ENACTMENT].
- (c) PRIOR OFFENSES. Offenses committed prior to the effective date of the Revised Criminal Code are subject to laws in effect at that time. For purposes of this subsection, an offense is “committed prior to the effective date” if any one of the elements of the offense was satisfied prior to the effective date.

§ 22A-102 RULES OF INTERPRETATION.

- (a) GENERALLY. To interpret a statutory provision of this title, the plain meaning of that provision shall be examined first. If necessary, the structure, purpose, and history of the provision also may be examined.
- (b) RULE OF LENITY. If two or more reasonable interpretations of a statutory provision remain after examination of that provision’s plain meaning, structure, purpose, and history, then the interpretation that is most favorable to the defendant applies.
- (c) EFFECT OF HEADINGS AND CAPTIONS. Headings and captions that appear at the beginning of chapters, subchapters, sections, and subsections of this title, may aid the interpretation of statutory language.

§ 22A-103 INTERACTION OF TITLE 22A WITH OTHER DISTRICT LAWS.

- (a) GENERAL INTERACTION OF TITLE 22A WITH PROVISIONS IN OTHER LAWS. Unless otherwise provided by law, a provision in this title applies to this title alone.
- (b) INTERACTION OF TITLE 22A WITH CIVIL PROVISIONS IN OTHER LAWS. The provisions of this title do not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil action.

§ 22A-104 APPLICABILITY OF THE GENERAL PART.

Unless otherwise provided by law, provisions in subtitle I of Title 22A apply to all other provisions of Title 22A.

§ 22A-201 PROOF OF OFFENSE ELEMENTS BEYOND A REASONABLE DOUBT.

- (a) **PROOF OF OFFENSE ELEMENTS BEYOND A REASONABLE DOUBT.** No person may be convicted of an offense unless each offense element is proven beyond a reasonable doubt.
- (b) **OFFENSE ELEMENT DEFINED.** “Offense element” includes the objective elements and culpability requirement necessary to establish liability for an offense.
- (c) **OBJECTIVE ELEMENT DEFINED.** “Objective element” means any conduct element, result element, or circumstance element. For purposes of this Title:
 - (1) “Conduct element” means any act or omission, as defined in § 22A-202, that is required to establish liability for an offense.
 - (2) “Result element” means any consequence that must have been caused by a person’s conduct in order to establish liability for an offense.
 - (3) “Circumstance element” means any characteristic or condition relating to either a conduct element or result element the existence of which is required to establish liability for an offense.
- (d) **CULPABILITY REQUIREMENT DEFINED.** “Culpability requirement” includes each of the following:
 - (1) The voluntariness requirement, as provided in § 22A-203;
 - (2) The causation requirement, as provided in § 22A-204; and
 - (3) The culpable mental state requirement, as provided in § 22A-205.

§ 22A-202 CONDUCT REQUIREMENT.

- (a) **CONDUCT REQUIREMENT.** No person may be convicted of an offense unless the person’s liability is based on an act, omission, or possession.
- (b) **ACT DEFINED.** “Act” means a bodily movement.
- (c) **OMISSION DEFINED.** “Omission” means a failure to act when (i) a person is under a legal duty to act and (ii) the person is either aware that the legal duty to act exists or, if the person lacks such awareness, the person is culpably unaware that the legal duty to act exists. For purposes of this Title, a legal duty to act exists when:

(1) The failure to act is expressly made sufficient by the law defining the offense; or

(2) A duty to perform the omitted act is otherwise imposed by law.

(d) POSSESSION DEFINED. “Possession” means knowingly exercising control over property, whether or not the property is on one’s person, for a period of time sufficient to allow the actor to terminate his or her control of the property.

§ 22A-203 VOLUNTARINESS REQUIREMENT.

(a) VOLUNTARINESS REQUIREMENT. No person may be convicted of an offense unless the person voluntarily commits the conduct element necessary to establish liability for the offense.

(b) SCOPE OF VOLUNTARINESS REQUIREMENT.

(1) *Voluntariness of Act.* Where a person’s act provides the basis for liability, a person voluntarily commits the conduct element of an offense when that act was the product of conscious effort or determination, or was otherwise subject to the person’s control.

(2) *Voluntariness of Omission.* Where a person’s omission provides the basis for liability, a person voluntarily commits the conduct element of an offense when the person had the physical capacity to perform the required legal duty, or the failure to act was otherwise subject to the person’s control.

§ 22A-204 CAUSATION REQUIREMENT.

(a) CAUSATION REQUIREMENT. No person may be convicted of an offense that contains a result element unless the person’s conduct was the factual cause and legal cause of the result.

(b) FACTUAL CAUSE DEFINED. “Factual cause” means:

(1) The result would not have occurred but for the person’s conduct; or

(2) In a situation where the conduct of two or more persons contributes to a result, the conduct of each alone would have been sufficient to produce that result.

(c) LEGAL CAUSE DEFINED. “Legal cause” means the result was a reasonably foreseeable consequence of the person’s conduct. A consequence is reasonably foreseeable if its occurrence is not too remote, accidental, or otherwise dependent upon an intervening force or act to have a just bearing on the person’s liability.

§ 22A-205 CULPABLE MENTAL STATE REQUIREMENT.

- (a) CULPABLE MENTAL STATE REQUIREMENT. No person may be convicted of an offense unless the person acts with a culpable mental state with respect to every result and circumstance required by the offense, with the exception of any result or circumstance for which that person is strictly liable under § 22A-207(b).
- (b) CULPABLE MENTAL STATE DEFINED. “Culpable mental state” means purpose, knowledge, recklessness, negligence, as defined in § 22A-206, or any comparable mental state specified in this Title.
- (c) STRICTLY LIABILITY DEFINED. “Strictly liable” or “strict liability” means liability in the absence of purpose, knowledge, recklessness, or negligence, as defined in § 22A-206, or any comparable mental state specified in this Title.

§ 22A-206 HIERARCHY OF CULPABLE MENTAL STATES.

- (a) PURPOSE DEFINED. “Purposely” or “purpose” means:
 - (1) With respect to a result, consciously desiring that one’s conduct cause the result.
 - (2) With respect to a circumstance, consciously desiring that the circumstance exists.
- (b) KNOWLEDGE DEFINED. “Knowingly” or “knowledge” means:
 - (1) With respect to a result, being aware that one’s conduct is practically certain to cause the result.
 - (2) With respect to a circumstance, being aware that it is practically certain that the circumstance exists.
- (c) RECKLESSNESS DEFINED. “Recklessly” or “recklessness” means:
 - (1) With respect to a result, being aware of a substantial risk that one’s conduct will cause the result.
 - (2) With respect to a circumstance, being aware of a substantial risk that the circumstance exists.
 - (3) In order to act recklessly as to a result or circumstance, the person’s conduct must grossly deviate from the standard of care that a reasonable person would observe in the person’s situation.

- (4) In order to act recklessly as to a result or circumstance “under circumstances manifesting extreme indifference” to the interests protected by an offense, the person’s conduct must constitute an extreme deviation from the standard of care that a reasonable person would observe in the person’s situation.

(d) NEGLIGENCE DEFINED. “Negligently” or “negligence” means:

- (1) With respect to a result, failing to perceive a substantial risk that one’s conduct will cause the result.
- (2) With respect to a circumstance, failing to perceive a substantial risk that the circumstance exists.
- (3) In order to act negligently as to a result or circumstance, the person’s conduct must grossly deviate from the standard of care that a reasonable person would observe in the person’s situation.

(e) PROOF OF GREATER CULPABLE MENTAL STATE SATISFIES REQUIREMENT FOR LOWER.

- (1) *Proof of Negligence.* When the law requires negligence as to a result or circumstance, the requirement is also satisfied by proof of recklessness, knowledge, or purpose.
- (2) *Proof of Recklessness.* When the law requires recklessness as to a result or circumstance, the requirement is also satisfied by proof of knowledge or purpose.
- (3) *Proof of Knowledge.* When the law requires knowledge as to a result or circumstance, the requirement is also satisfied by proof of purpose.

§ 22A-207 RULES OF INTERPRETATION APPLICABLE TO CULPABLE MENTAL STATE REQUIREMENT.

- (a) DISTRIBUTION OF ENUMERATED CULPABLE MENTAL STATES. Any culpable mental state specified in an offense applies to all subsequent results and circumstances until another culpable mental state is specified, with the exception of any result or circumstance for which the person is strictly liable under § 22A-207(b).
- (b) IDENTIFICATION OF ELEMENTS SUBJECT TO STRICT LIABILITY. A person is strictly liable for any result or circumstance in an offense:
 - (1) That is modified by the phrase “in fact,” or
 - (2) To which legislative intent explicitly indicates strict liability applies.

- (c) DETERMINATION OF WHEN RECKLESSNESS IS IMPLIED. A culpable mental state of “recklessly” applies to any result or circumstance not otherwise subject to a culpable mental state under § 22A-207(a), or subject to strict liability under § 22A-207(b).

§ 22A-208 PRINCIPLES OF LIABILITY GOVERNING ACCIDENT, MISTAKE, AND IGNORANCE.

- (a) EFFECT OF ACCIDENT, MISTAKE, AND IGNORANCE ON LIABILITY. A person is not liable for an offense when that person’s accident, mistake, or ignorance as to a matter of fact or law negates the existence of a culpable mental state applicable to a result or circumstance in that offense.
- (b) CORRESPONDENCE BETWEEN MISTAKE AND CULPABLE MENTAL STATE REQUIREMENTS. For purposes of determining when a particular mistake as to a matter of fact or law negates the existence of a culpable mental state applicable to a circumstance:
- (1) *Purpose.* Any reasonable or unreasonable mistake as to a circumstance negates the existence of the purpose applicable to that element.
 - (2) *Knowledge.* Any reasonable or unreasonable mistake as to a circumstance negates the existence of the knowledge applicable to that element.
 - (3) *Recklessness.* Any reasonable mistake as to a circumstance negates the recklessness applicable to that element. An unreasonable mistake as to a circumstance only negates the existence of the recklessness applicable to that element if the person did not recklessly make that mistake.
 - (4) *Negligence.* Any reasonable mistake as to a circumstance negates the existence of the negligence applicable to that element. An unreasonable mistake as to a circumstance only negates the existence of the negligence applicable to that element if the person did not recklessly or negligently make that mistake.
- (c) IMPUTATION OF KNOWLEDGE FOR DELIBERATE IGNORANCE. When a culpable mental state of knowledge applies to a circumstance in an offense, the required culpable mental state is established if:
- (1) The person was reckless as to whether the circumstance existed; and
 - (2) The person avoided confirming or failed to investigate whether the circumstance existed with the purpose of avoiding criminal liability.

§ 22A-209 PRINCIPLES OF LIABILITY GOVERNING INTOXICATION.

(a) **RELEVANCE OF INTOXICATION TO LIABILITY.** A person is not liable for an offense when that person's intoxication negates the existence of a culpable mental state applicable to a result or circumstance in that offense.

(1) *Definition of Intoxication.* "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.

(b) **CORRESPONDENCE BETWEEN INTOXICATION AND CULPABLE MENTAL STATE REQUIREMENTS.**

(1) *Purpose.* A person's intoxication negates the existence of the culpable mental state of purpose applicable to a result or circumstance when, due to the person's intoxicated state, that person does not consciously desire to cause that result or that the circumstance exists.

(2) *Knowledge.* A person's intoxication negates the existence of the culpable mental state of knowledge applicable to a result or circumstance when, due to the person's intoxicated state, that person is not practically certain that the person's conduct will cause that result or that the circumstance exists.

(3) *Recklessness.* A person's intoxication negates the existence of the culpable mental state of recklessness applicable to a result or circumstance when, due to the person's intoxicated state, that person is not aware of a substantial risk that the person's conduct will cause that result or that the circumstance exists, unless that person's conduct satisfies subsection (c), in which case the culpable mental state of recklessness is established.

(c) **IMPUTATION OF RECKLESSNESS FOR SELF-INDUCED INTOXICATION.** When a culpable mental state of recklessness applies to a result or circumstance in an offense, recklessness is established if:

(1) The person, due to self-induced intoxication, fails to perceive a substantial risk that the person's conduct will cause that result or that the circumstance exists; and

(2) The person is negligent as to whether the person's conduct will cause that result or as to whether that circumstance exists.