

TITLE 7. PUBLIC PEACE, MORALS, AND WELFARE

Chapter 7.2

LIABILITY

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7.2.1. Culpability — Who Is Guilty. (a) Kinds of Culpability Defined.

(1) Intent. A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime.

(2) Knowledge. A person knows or acts knowingly or with knowledge when:

(A) He or she is aware of a fact, facts, circumstances, or result described by a statute defining an offense; or

(B) He or she has information which would lead a reasonable person in the same situation to believe that facts exist which are described by a statute defining an offense.

(3) Recklessness. A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

(4) Criminal Negligence. A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

(b) Substitutes for Criminal Negligence, Recklessness, and Knowledge. When a statute provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly, or recklessly. When recklessness suffices to establish an element of an offense, such element also is established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts intentionally.

(c) Culpability as Determinant of Grade of Offense. When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

(d) Requirement of Willfulness Satisfied by Acting Knowingly. A requirement that an offense be committed willfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears. (Res. 93-025 (part), passed Mar. 8, 1993)

7.2.2. Complicity — Who Is Guilty for the Actions of Another. (a) A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable.

(b) A person is legally accountable for the conduct of another person when:

(1) Acting with the kind of culpability that is sufficient for the commission of the crime, he or she causes an innocent or irresponsible person to engage in such conduct;

(2) He or she is made accountable for the conduct of such other person by this title or by the law defining the crime; or

(3) He or she is an accomplice of such other person in the commission of the crime.

(c) A person is an accomplice of another person in the commission of a crime if:

(1) With knowledge that it will promote or facilitate the commission of the crime, he or she:

(A) Solicits, commands, encourages, or requests such other person to commit it; or

(B) Aids or agrees to aid such other person in planning or committing it.

(2) His or her conduct is expressly declared by law to establish his or her complicity.

(d) A person who is legally incapable of committing a particular crime him- or herself may be guilty thereof if it is committed by the conduct of another person for whom he or she is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his or her incapacity.

(e) Unless otherwise provided by this title or by the law defining the crime, a person is not an accomplice in a crime committed by another person if:

(1) He or she is a victim of that crime; or

(2) He or she terminates his or her complicity prior to the commission of the crime and either gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the crime.

(f) A person legally accountable for the conduct of another person may be convicted on proof of the commission of the crime and of his or her complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted, or has been convicted of a different crime or degree of crime, or has an immunity to prosecution or conviction, or has been acquitted. (Res. 93-025 (part), passed Mar. 8, 1993)

7.2.3. Insanity. To establish the defense of insanity, it must be shown that:

(a) At the time of the commission of the offense as a result of mental disease or defect, the mind of the actor was affected to such an extent that:

(1) He or she was unable to perceive the nature and quality of the act with which he or she is charged; or

(2) He or she was unable to tell right from wrong with reference to the particular act charged.

(b) The defense of insanity must be established by a preponderance of the evidence. (Res. 93-025 (part), passed Mar. 8, 1993)

7.2.4. Defenses. (a) “Necessary” Defined. “Necessary” means that no reasonable alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.

(b) Use of Force — When Lawful. The use, attempt, or offer to use force upon or toward the person of another shall not be unlawful in the following cases:

(1) Whenever necessarily used by a public officer in the performance of a legal duty or by a person assisting him or her and acting under his or her direction;

(2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him or her to a public officer competent to receive him or her into custody;

(3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than shall be necessary;

(4) Whenever used in a reasonable and moderate manner by a parent or his or her authorized agent, a guardian, master, or teacher in the exercise of lawful authority to restrain or correct his or her child, ward, apprentice, or scholar;

(5) Whenever used by a carrier of passengers, his or her authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than shall be necessary to expel the offender with reasonable regard to his or her personal safety; or

(6) Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to him- or herself or another or in enforcing necessary restraint for the protection of his or her person or his or her restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his or her person.

(c) Homicide — When Excusable. Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, with ordinary caution, and without any unlawful intent.

(d) Justifiable Homicide by Public Officer. Homicide is justifiable when committed by a public officer or person acting under his or her command and in his or her aid in the following cases:

(1) In obedience to the judgment of a competent court; or

(2) When there is reasonable cause to believe that it is necessary to prevent serious bodily injury or death to him- or herself or to another.

(e) Homicide by Other Person — When Justifiable. Homicide is also justifiable when committed either:

(1) In the lawful defense of the slayer or his or her husband, wife, parent, child, brother, or sister, or of any other person in his or her presence or company when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to

any such person and there is imminent danger of such design being accomplished; or

(2) In the actual resistance of an attempt to commit a felony upon the slayer, in his or her presence, or upon or in a dwelling or other place of abode in which he or she is.

(f) Duress. (1) In any prosecution for a crime, it is a defense:

(A) That the actor participated in the crime under compulsion by another who by threat or use of force created an apprehension in the mind of the actor that in case of refusal he or she or another would be liable to immediate death or immediate grievous injury;

(B) That such apprehension was reasonable upon the part of the actor; and

(C) That the actor would not have participated in the crime except for the duress involved.

(2) The defense of duress is not available if the crime charged is murder or manslaughter.

(3) The defense of duress is not available if the actor intentionally or recklessly places him- or herself in a situation in which it is probable that he or she will be subject to duress.

(4) The defense of duress is not established solely by a showing that a married person acted on the command of his or her spouse.

(g) Intoxication. No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his or her condition, but whenever the actual existence of any particular mental state is a necessary element to constitute a particular species or degree of crime, the fact of his or her intoxication may be taken into consideration in determining such mental state. (Res. 93-025 (part), passed Mar. 8, 1993)

Note: All subsections in this chapter have been renumbered for consistency, as follows. (Res. 2016-090, Jun. 20, 2016)

All Arabic numerals (1, 2, 3, etc.) used as subsection headings have been changed to lower case letters (a, b, c, etc.)

All lower case letters have been changed to Arabic numerals

All lower case Roman numerals (i, ii, iii, etc.) have been changed to upper case letters (A, B, C, etc.)

Example: What was previously 7.2.1(1)(b)(i) is now 7.2.1(a)(2)(A)