

CRIMINAL LAW

REQUIREMENTS: ACT + INTENT + RESULT = CRIME – DEFENSES (AIRCOC)

Abbreviation key: A. = Amendment; Art. = Article

ACT (ACTUS REUS)

1. **Definitions:** A voluntary act
2. Actus reus is satisfied by either:
 - A. A **volitional act**
 - i. Thoughts alone are insufficient to establish the actus reus element
 - (a) Some kind of action in addition to thoughts is required for a valid criminal prosecution
 - (b) A legislature cannot criminalize thoughts that it disagrees with [*R.A.V. v. City of St. Paul*]
 - (c) Thoughts plus an overt act or substantial step toward a crime can constitute an attempt crime; historically, attempt crimes were treated as misdemeanors; however, modernly, attempt crimes are classified as felonies
 - ii. 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 [*M.L.S. 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 assist without causing danger or peril to any persons; 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 seclusion
 - D. Special relationship
 - ii. 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*]
 - iii. 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 [*Martin v. State*]
 - B. Reflexive
 - C. Unconscious
 - i. One who becomes unconscious and causes harm due to a sudden unexpected medical condition will have a valid defense that his/her act was 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 [*State v. Decina*]
 - 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 [*State v. Decina*]
 - 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 [*State v. Decina*]
 - D. Involuntarily intoxicated
 - E. Asleep (i.e., sleepwalking)
 - F. Convulsive (i.e., epileptic)
- 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 the 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. **Defenses to specific intent**
 - A. **Voluntary intoxication** is allowed in most states as a defense to a specific intent crime wherein the defendant's intoxication prevented the formation of the requisite specific intent needed to commit the crime (i.e., unable to intend the consequences of his/her actions); however, although voluntary intoxication may work to defend against a specific intent crime, it might not negate all criminal liability and other related general intent crimes could be validly charged
 - i. If a defendant asserts voluntary intoxication to defend against the specific intent element of premeditation and deliberation in a 1st degree murder charge, a voluntary intoxication defense may not protect the same defendant against the lesser offense of 2nd degree murder that requires only general intent
 - ii. Voluntary intoxication defenses are generally disfavored
 - iii. States are not required to recognize the defense of voluntary intoxication, and it is constitutionally valid to instead ban the defense of voluntary intoxication entirely, which some states have done [*M.L.S. Egdloff*]
 - B. **Involuntary intoxication** is accepted as a valid defense to mens rea
 - C. **Mistake of fact:** Even if the mistake is unreasonable, if in good faith, is a defense to mens rea
 - D. **Mistake of law:** a small category of criminal statutes that require, as an element of the crime, proof that the defendant knew the law prior to violating it (i.e., the defendant acted with knowledge that his conduct was unlawful)
 - i. Knowledge of law element found only in complex criminal codes (tax code, immigration law, regulatory laws, etc.)
 - ii. Even if it is unreasonable that defendant did not know the law, the defense can work if defendant was acting in good faith
4. **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 [*Hoffman v. U.S.*]
 - G. Forgery
 - H. False pretenses
 - i. Statutory language must include "intent to defraud" [*Bates v. U.S.*]
1. Embezzlement

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. **Defenses**
 - A. **Mistake of fact** must be honest and reasonable but cannot be a legal or moral wrong
 - i. **Legal wrong-moral wrong exception:** Assuming the reasonable mistake, if the defendant's act would still be illegal or immoral, the mistake of fact defense is invalid because the defendant knew he was committing a wrong, just a different wrong
 - B. **Involuntary intoxication** is a defense, but voluntary intoxication is not a defense
3. **Examples of common law general intent crimes**
 - A. Rape
 - B. Battery
 - C. Involuntary manslaughter
4. **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*]
 - (b) Transferred intent also applied to affirm the 1st degree murder convictions where both the unintended victim and intended were killed [*People v. U.S.*]
 - ii. 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. Cozzano; Bell v. State*]
5. Model Penal Code (MPC)

Middle School Study Guide For Criminal Law

J Elliott



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Table of Contents Middle School Study Guide For Criminal Law

1. Understanding the eBook Middle School Study Guide For Criminal Law
 - The Rise of Digital Reading Middle School Study Guide For Criminal Law
 - Advantages of eBooks Over Traditional Books
2. Identifying Middle School Study Guide For Criminal Law
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in a Middle School Study Guide For Criminal Law
 - User-Friendly Interface
4. Exploring eBook Recommendations from Middle School Study Guide For Criminal Law
 - Personalized Recommendations
 - Middle School Study Guide For Criminal Law User Reviews and Ratings
 - Middle School Study Guide For Criminal Law and Bestseller Lists
5. Accessing Middle School Study Guide For Criminal Law Free and Paid eBooks
 - Middle School Study Guide For Criminal Law Public Domain eBooks
 - Middle School Study Guide For Criminal Law eBook Subscription Services
 - Middle School Study Guide For Criminal Law Budget-Friendly Options
6. Navigating Middle School Study Guide For Criminal Law eBook Formats
 - ePub, PDF, MOBI, and More
 - Middle School Study Guide For Criminal Law Compatibility with Devices
 - Middle School Study Guide For Criminal Law Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Middle School Study Guide For Criminal Law
 - Highlighting and Note-Taking Middle School Study Guide For Criminal Law
 - Interactive Elements Middle School Study Guide For Criminal Law

8. Staying Engaged with Middle School Study Guide For Criminal Law
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Middle School Study Guide For Criminal Law
9. Balancing eBooks and Physical Books Middle School Study Guide For Criminal Law
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Middle School Study Guide For Criminal Law
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Middle School Study Guide For Criminal Law
 - Setting Reading Goals Middle School Study Guide For Criminal Law
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Middle School Study Guide For Criminal Law
 - Fact-Checking eBook Content of Middle School Study Guide For Criminal Law
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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