
Judiciary Committee

HB 2690

Title: An act relating to prohibiting the use of voluntary intoxication as a defense against a criminal charge.

Brief Description: Prohibiting the use of voluntary intoxication as a defense against a criminal charge.

Sponsors: Representatives Kristiansen, Blake, Klippert, Ericks, Hope, O'Brien, Pearson, Bailey, Rodne, Shea, Kretz, Roach, Sullivan, Campbell, Kelley, McCune, Morrell, Kessler, Warnick and Hurst.

Brief Summary of Bill

- Prevents a criminal defendant from using the fact of voluntary intoxication as evidence to demonstrate the lack of a mental state that is an element of a charged crime.
- Amends the definitions of "intent," "knowledge," and "recklessness" to include situations where the defendant is voluntarily intoxicated and acts in a manner that would be considered intentional, knowing, or reckless if not intoxicated.

Hearing Date: 1/25/10

Staff: Edie Adams (786-7180).

Background:

In a criminal case, the prosecution must prove every element of the crime charged beyond a reasonable doubt. Many crimes require some degree of culpability as an element of the crime. There are four kinds of culpability defined in the criminal code: intent, knowledge, recklessness, and criminal negligence. The first three kinds of culpability—intent, knowledge and recklessness—involve a "state of mind."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Voluntary intoxication does not excuse a person from his or her criminal behavior. However, the trier of fact may consider evidence of voluntary intoxication in cases where the intoxication may have prevented the defendant from forming a particular mental state that is an element of the charged crime. In *Seattle v. Hill*, "voluntary intoxication" was interpreted as intoxication not caused by force or fraud, and includes intoxication resulting from alcohol or drug dependence.

A defendant might argue that because of intoxication he or she was unable to form the intent or knowledge required to commit the crime. A defendant is entitled to a voluntary intoxication instruction if the crime charged has as an element a particular mental state, there is substantial evidence of intoxication, and there is evidence the intoxication affected the defendant's ability to form the required mental state. Intoxication may not be used in cases where the level of culpability involves criminal negligence, because criminal negligence does not require a particular state of mind.

Under the Sentencing Reform Act, the sentencing court may consider evidence of involuntary intoxication as a mitigating circumstance to support an exceptional sentence below the standard range sentence. Involuntary intoxication in this circumstance does not include intoxication that is the result of addiction or dependency.

In 1996 the U.S. Supreme Court, in a 5-4 plurality decision, upheld a Montana statute that prohibits the consideration of voluntary intoxication in determining the existence of a mental state in a charged crime. The four-member plurality held that the due process clause of the federal Constitution does not guarantee the right of a defendant to have all relevant evidence introduced. A restriction on the introduction of such evidence is unconstitutional only when it violates a fundamental principle of justice that is deeply rooted in the traditions and conscience of our culture. The plurality found that prohibiting evidence of intoxication does not meet this test. Justice Ginsberg, in a concurring opinion, held that the Montana statute in effect re-defined the mental state element of the offense and therefore did not violate due process since states have broad authority to define the elements of a criminal offense.

Summary of Bill:

A defendant may not introduce evidence of his or her voluntary intoxication to demonstrate the lack of a mental state that is an element of a charged crime. The prohibition on the use of evidence of voluntary intoxication includes, but is not limited to, alcohol or any drug. The prosecution may continue to introduce evidence of the defendant's intoxication.

The definitions of intent, knowledge, and recklessness are amended to specify that a person acts intentionally, knowingly, or recklessly if the person acts in a manner that would be considered intentional, knowing, or reckless if the person were not intoxicated.

The act applies prospectively and not retroactively.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.