
Public Safety Committee

HB 2473

Brief Description: Concerning the definitions of culpability in the criminal code.

Sponsors: Representatives Goodman, Holy and Klippert.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Modifies the definition of "intent" in the Criminal Code to mean that a person acts with intent or intentionally when he or she acts with the objective to accomplish a result that is "an element of" a crime.

Hearing Date: 1/19/16

Staff: Kelly Leonard (786-7147) and Ellie Page (786-7291).

Background:

Most crimes have two components: the actus reus, which is a Latin term for the "guilty act," and mens rea, which is a Latin term for "guilty mind." As a general rule, criminal liability does not arise in the absence of mental fault. The exception is strict liability crimes. In Washington, there are four statutory levels of culpable mental states. These include:

- *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.
- *Knowledge.* A person knows or acts knowingly or with knowledge when:
 - he or she is aware of a fact, facts, or circumstance or result described by a statute defining an offense; or
 - he or she has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute defining an offense.
- *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.

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.

- *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 or care that a reasonable person would exercise in the same situation.

The level of the culpable mental state can be a factor in determining the degree or severity of a crime, which affects sentencing considerations related to an offender's term of imprisonment and the amount of fines owed by an offender. For example, a person commits Murder in the first degree if, with premeditated intent, he or she causes the death of another. The mandatory minimum sentence for Murder in the first degree is 20 years of imprisonment. By contrast, a person commits Manslaughter in the second degree when, with criminal negligence, he or she causes the death of another. There is no mandatory minimum sentence for Manslaughter.

Issues concerning culpability in criminal cases arise in the context of jury instructions. In each individual criminal case, jury instructions are agreed to by the attorneys and trial judge and are used by the judge to instruct jurors on their role in the trial process, as well as inform them of the crime(s) charged and the prosecutor's burden of proof. Typically, jurors are given instructions outlining the elements of the crime for which the defendant is charged, and requiring the jury to find that each element has been proved beyond a reasonable doubt before finding the defendant guilty. An element of a crime refers to each separate factor comprising the crime, including the defendant's actions, the defendant's intent, and any harm to persons or property.

Summary of Bill:

The definition of "intent" is revised to mean that a person acts with intent when he or she acts with the purpose to accomplish a result that is an element of a crime.

Appropriation: None.

Fiscal Note: Requested on January 18, 2016.

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