

Texas Penal Code

Chapter 6. Culpability Generally

Section

§6.01. Requirement of voluntary act or omission.

§6.02. Requirement of culpability.

§6.03. Definitions of culpable mental states.

§6.04. Causation: conduct and results.

§6.01. Requirement of voluntary act or omission.

- (a) A person commits an offense only if he voluntarily engages in conduct, including an act an omission, or possession.
- (b) Possession is a voluntary act if the possessor knowingly obtains or receives the thing possessed or is aware of his control of the thing for a sufficient time to permit him to terminate his control.
- (c) A person who omits to perform an act does not commit an offense unless a law as defined by Section 1.07 provides that the omission is an offense or otherwise provides that he has a duty to perform the act.

§6.02. Requirement of culpability.

- (a) Except as provided in Subsection (b), a person does not commit an offense unless he intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.
- (b) If the definition of an offense does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.
- (c) If the definition of an offense does not prescribe a culpable mental state, but one is nevertheless required under Subsection (b), intent, knowledge, or recklessness suffices to establish criminal responsibility.
- (d) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:
 - 1. intentional;
 - 2. knowing;
 - 3. reckless;
 - 4. criminal negligence.
- (e) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.

§6.03. Definitions of culpable mental states.

- (a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or the conduct or cause the result.
- (b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.
- (c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.
- (d) A person acts with criminal negligence, or is criminally negligent with respect to the circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that his failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

§6.04. Causation: conduct and results.

- (a) A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.
- (b) A person is nevertheless criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that:
 - 1. A different offense was committed; or
 - 2. A different person or property was injured, harmed, or otherwise affected.

Chapter 8. General Defenses To Criminal Responsibility

Section

- §8.01. Insanity.
- §8.02. Mistake or fact.
- §8.03. Mistake of law.
- §8.04. Intoxication.
- §8.05. Duress.
- §8.06. Entrapment.
- §8.07. Age affecting criminal responsibility.

§8.01. Insanity.

- (a) It is an affirmative defense to prosecution that, at the time of the conduct charged, the actor, as a result of severe mental disease or defect, did not know that his conduct was wrong.
- (b) The term “mental disease or defect” does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

§8.02. Mistake or fact.

- (a) It is a defense to prosecution that the actor through mistake formed a reasonable belief about a matter of fact if his mistaken belief negated the kind of culpability required for commission of the offense.
- (b) Although an actor’s mistake of fact may constitute a defense to the offense charged, he may nevertheless be convicted of any lesser included offense of which he would be guilty in the fact were as he believed.

§8.03. Mistake of law.

- (a) It is no defense to prosecution that the actor was ignorant of the provisions of any law after the law has taken effect.
- (b) It is an affirmative defense to prosecution that the actor reasonably believed the conduct charged did not constitute a crime and that he acted in reasonable reliance upon:
 1. An official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in question; or
 2. A written interpretation of the law contained in an opinion of a court of record or made by a public official charged by law with responsibility for interpreting the law in question.

(c) Although an actor's mistake of law may constitute a defense to the offense charged, may be nevertheless be convicted of a lesser included offense of which he would be guilty if the law were as he believed.

§8.04. Intoxication.

- (a) Voluntary intoxication does not constitute a defense to the commission of crime.
- (b) Evidence of temporary insanity caused by intoxication may be introduced by the actor in mitigation of the penalty attached to the offense fro which he is being tried.
- (c) When temporary insanity is relied upon as a defense and the evidence tends to show that such insanity was caused by intoxication, the court shall charge the jury in accordance with the provisions of this section.
- (d) For purposes of this section "intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance in the body.

§8.05. Duress.

- (a) It is an affirmative defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by threat of imminent death or serious bodily injury to himself or another.
- (b) In a prosecution for an offense that does not constitute a felony, it is an affirmative defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by force or threat of force.
- (c) Compulsion within the meaning of this section exists only if the force or threat of force would render a person of reasonable firmness incapable of resisting the pressure.
- (d) The defense provided by this section is unavailable if the actor intentionally knowingly, or recklessly placed himself in a situation in which it was probable that he would be subjected to compulsion.
- (e) It is no defense that a person acted at the command or persuasion of his spouse, unless he acted under compulsion that would establish a defense under this section.

§8.06. Entrapment.

- (a) It is a defense to prosecution that the actor engaged in the conduct charged because he was induced to do so by a law enforcement agent using persuasion or other means likely to cause persons to commit the offense. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.
- (b) In this section "law enforcement agent" includes personnel of the state and local law enforcement agencies as well as of the United States and any person acting in accordance with instructions from such agents.

§8.07. Age affecting criminal responsibility.

(a) A person may not be prosecuted for or convicted of any offense that the person committed when younger than 15 years of age except:

1. Perjury and aggravated perjury when it appears by proof that the person had sufficient discretion to understand the nature and obligation of an oath;
 2. A violation of a penal statute cognizable under Chapter 729, Transportation Code, except for
 - a. An offense under Section 550.021, Transportation Code;
 - b. An offense punishable as a Class B misdemeanor under Section 550.022,
 - c. An Offense punishable as a Class B misdemeanor under Section 550.024,
 3. A violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;
 4. A misdemeanor punishable by fine only other than public intoxication;
 5. A violation of a penal ordinance of a political subdivision;
 6. A violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older; or
 7. A capital felony or an offense under Section 1902 for which the person is transferred to the court under Section 54.020(2)(A), Family Code.
- (b) Unless the juvenile court waiver jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution, as person may not be prosecuted for or convicted of any offense committed before reaching 17 years of age except an offense described by Subsections (a) 1-5.