

**As Reported by the Senate Criminal Justice Committee**

**130th General Assembly**

**Regular Session**

**2013-2014**

**Am. S. B. No. 361**

**Senator Seitz**

**Cosponsors: Senators Eklund, Obhof, LaRose, Bacon, Patton**

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**A B I L L**

To amend sections 2901.21 and 2901.22 and to enact 1  
section 2901.20 of the Revised Code to clarify 2  
when strict criminal liability is imposed or a 3  
degree of culpability is required for the 4  
commission of an offense, to modify the concept of 5  
acting recklessly, and to require that future acts 6  
creating criminal offenses specify the requisite 7  
degree of culpability. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2901.21 and 2901.22 be amended and 9  
section 2901.20 of the Revised Code be enacted to read as follows: 10

**Sec. 2901.20.** (A) Every act enacted on or after the effective 11  
date of this section that creates a new criminal offense shall 12  
specify the degree of mental culpability required for commission 13  
of the offense. A criminal offense for which no degree of mental 14  
culpability is specified that is enacted in an act in violation of 15  
this division is void. 16

(B) Division (A) of this section does not apply to the 17  
amendment of a criminal offense that existed on the effective date 18  
of this section, but it does apply to a new criminal offense added 19

to a statute that existed on the effective date of this section. 20

**Sec. 2901.21.** (A) Except as provided in division (B) of this 21  
section, a person is not guilty of an offense unless both of the 22  
following apply: 23

(1) The person's liability is based on conduct that includes 24  
either a voluntary act, or an omission to perform an act or duty 25  
that the person is capable of performing; 26

(2) The person has the requisite degree of culpability for 27  
each element as to which a culpable mental state is specified by 28  
the ~~section~~ language defining the offense. 29

(B) When the ~~section~~ language defining an offense does not 30  
specify any degree of culpability, and plainly indicates a purpose 31  
to impose strict criminal liability for the conduct described in 32  
the section, then culpability is not required for a person to be 33  
guilty of the offense. The fact that one division of a section 34  
plainly indicates a purpose to impose strict liability for an 35  
offense defined in that division does not by itself plainly 36  
indicate a purpose to impose strict criminal liability for an 37  
offense defined in other divisions of the section that do not 38  
specify a degree of culpability. 39

(C)(1) When the ~~section~~ language defining an element of an 40  
offense that is related to knowledge or intent or to which mens 41  
rea could fairly be applied neither specifies culpability nor 42  
plainly indicates a purpose to impose strict liability, 43  
~~recklessness is sufficient culpability to commit the offense~~ the 44  
element of the offense is established only if a person acts 45  
recklessly. 46

(2) Division (C)(1) of this section does not apply to 47  
offenses defined in Title XLV of the Revised Code. 48

(3) Division (C)(1) of this section does not relieve the 49

prosecution of the burden of proving the culpable mental state 50  
required by any definition incorporated into the offense. 51

~~(C)~~(E) Voluntary intoxication may not be taken into 52  
consideration in determining the existence of a mental state that 53  
is an element of a criminal offense. Voluntary intoxication does 54  
not relieve a person of a duty to act if failure to act 55  
constitutes a criminal offense. Evidence that a person was 56  
voluntarily intoxicated may be admissible to show whether or not 57  
the person was physically capable of performing the act with which 58  
the person is charged. 59

~~(D)~~(F) As used in this section: 60

(1) Possession is a voluntary act if the possessor knowingly 61  
procured or received the thing possessed, or was aware of the 62  
possessor's control of the thing possessed for a sufficient time 63  
to have ended possession. 64

(2) Reflexes, convulsions, body movements during 65  
unconsciousness or sleep, and body movements that are not 66  
otherwise a product of the actor's volition, are involuntary acts. 67

(3) "Culpability" means purpose, knowledge, recklessness, or 68  
negligence, as defined in section 2901.22 of the Revised Code. 69

(4) "Intoxication" includes, but is not limited to, 70  
intoxication resulting from the ingestion of alcohol, a drug, or 71  
alcohol and a drug. 72

**Sec. 2901.22.** (A) A person acts purposely when it is ~~his~~ the 73  
person's specific intention to cause a certain result, or, when 74  
the gist of the offense is a prohibition against conduct of a 75  
certain nature, regardless of what the offender intends to 76  
accomplish thereby, it is ~~his~~ the offender's specific intention to 77  
engage in conduct of that nature. 78

(B) A person acts knowingly, regardless of ~~his~~ purpose, when 79

~~he~~ the person is aware that ~~his~~ the person's conduct will probably  
cause a certain result or will probably be of a certain nature. A  
person has knowledge of circumstances when ~~he~~ the person is aware  
that such circumstances probably exist. When knowledge of the  
existence of a particular fact is an element of an offense, such  
knowledge is established if a person subjectively believes that  
there is a high probability of its existence and fails to make  
inquiry or acts with a conscious purpose to avoid learning the  
fact.

(C) A person acts recklessly when, with heedless indifference  
to the consequences, ~~he~~ perversely the person disregards a ~~known~~  
substantial and unjustifiable risk that ~~his~~ the person's conduct  
is likely to cause a certain result or is likely to be of a  
certain nature. A person is reckless with respect to circumstances  
when, with heedless indifference to the consequences, ~~he~~  
perversely the person disregards a ~~known~~ substantial and  
unjustifiable risk that such circumstances are likely to exist.

(D) A person acts negligently when, because of a substantial  
lapse from due care, ~~he~~ the person fails to perceive or avoid a  
risk that ~~his~~ the person's conduct may cause a certain result or  
may be of a certain nature. A person is negligent with respect to  
circumstances when, because of a substantial lapse from due care,  
~~he~~ the person fails to perceive or avoid a risk that such  
circumstances may exist.

(E) When the section defining an offense provides that  
negligence suffices to establish an element thereof, then  
recklessness, knowledge, or purpose is also sufficient culpability  
for such element. When recklessness suffices to establish an  
element of an offense, then knowledge or purpose is also  
sufficient culpability for such element. When knowledge suffices  
to establish an element of an offense, then purpose is also  
sufficient culpability for such element.

**Section 2.** That existing sections 2901.21 and 2901.22 of the Revised Code are hereby repealed.

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