



Sub. H.B. 318

123rd General Assembly
(As Passed by the General Assembly)

Reps. Willamowski, Taylor, Buchy, Buehrer, Clancy, Corbin, Flannery, Grendell, Hoops, Jacobson, Jones, Ferderber, Maier, Netzley, Padgett, Pringle, Schuring, Terwilleger, Tiberi, Trakas, Young, DePiero, Jerse, Goodman, Damschroder, Roman, Hollister, Carey, Jordan, Evans, D. Miller, Cates, Aslanides, Olman, Metzger, Harris, Widener, Calvert, Vesper, Salerno

Sens. Cupp, Latta, Johnson, Mumper, Shoemaker, Carnes, Wachtmann, Spada

Effective date: *

ACT SUMMARY

- Provides that voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense.
- States that voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense.
- Provides that evidence that a person was voluntary intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.
- Defines "intoxication."

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

CONTENT AND OPERATION

Liability in the criminal law

Under continuing law, a person is not guilty of an offense unless both of the following apply (R.C. 2901.21(A)): (1) the person's liability is based on conduct that includes either a voluntary act or an omission to perform an act or duty that the person is capable of performing, and (2) the person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section of the Revised Code defining the offense.

Culpable mental states

The continuing criminal law of Ohio specifies four culpable mental states: "purposely," "knowingly," "recklessly," and "negligently" (R.C. 2901.22--not in the act):

(1) A person acts *purposely* when it is the person's specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the person's specific intention to engage in conduct of that nature.

(2) A person acts *knowingly*, regardless of the person's purpose, when the person is aware that 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 the person is aware that such circumstances probably exist.

(3) A person acts *recklessly* when, with heedless indifference to the consequences, the person perversely disregards a known risk that 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, the person perversely disregards a known risk that such circumstances are likely to exist.

(4) A person acts *negligently* when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that 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, the person fails to perceive or avoid a risk that such circumstances may exist.

Operation of the act

Under the act, voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense.

The act further states that voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. The act also provides that evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged. (R.C. 2901.21(C).)

The act specifies that "intoxication," as used in the above-discussed provisions of the act includes, but is not limited to, being under the influence of alcohol, a drug, or alcohol and a drug (R.C. 2901.21(D)(4)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-29-99	p. 500
Reported, H. Criminal Justice	11-10-99	p. 1356
Passed House (88-1)	12-09-99	pp. 1444-1445
Reported, S. Judiciary	04-04-00	p. 1549
Passed Senate (33-0)	04-04-00	p. 1552
House concurred in Senate amendments (94-2)	04-11-00	pp. 1786-1787

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