

# House Bill 2334

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon District Attorneys' Association)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies definitions of "recklessly" and "criminal negligence" for purposes of certain criminal laws.

## A BILL FOR AN ACT

1  
2 Relating to crime; creating new provisions; and amending ORS 161.085.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 161.085 is amended to read:

5 161.085. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires  
6 otherwise:

7 (1) "Act" means a bodily movement.

8 (2) "Voluntary act" means a bodily movement performed consciously and includes the conscious  
9 possession or control of property.

10 (3) "Omission" means a failure to perform an act the performance of which is required by law.

11 (4) "Conduct" means an act or omission and its accompanying mental state.

12 (5) "To act" means either to perform an act or to omit to perform an act.

13 (6) "Culpable mental state" means intentionally, knowingly, recklessly or with criminal  
14 negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.

15 (7) "Intentionally" or "with intent," when used with respect to a result or to conduct described  
16 by a statute defining an offense, means that a person acts with a conscious objective to cause the  
17 result or to engage in the conduct so described.

18 (8) "Knowingly" or "with knowledge," when used with respect to conduct or to a circumstance  
19 described by a statute defining an offense, means that a person acts with an awareness that the  
20 conduct of the person is of a nature so described or that a circumstance so described exists.

21 (9) "Recklessly[,]" [*when used with respect to a result or to a circumstance described by a statute*  
22 *defining an offense,*] means that a person is aware of and consciously disregards a substantial and  
23 unjustifiable risk **of harm** [*that the result will occur or that the circumstance exists*]. The risk must  
24 be of such nature and degree that disregard thereof constitutes a gross deviation from the standard  
25 of care that a reasonable person would observe in the situation.

26 (10) "Criminal negligence" or "criminally negligent[,]" [*when used with respect to a result or to*  
27 *a circumstance described by a statute defining an offense,*] means that a person fails to be aware of  
28 a substantial and unjustifiable risk **of harm** [*that the result will occur or that the circumstance*  
29 *exists*]. The risk must be of such nature and degree that the failure to be aware of it constitutes a  
30 gross deviation from the standard of care that a reasonable person would observe in the situation.

31 **SECTION 2.** The amendments to ORS 161.085 by section 1 of this 2009 Act apply to con-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **duct occurring on or after the effective date of this 2009 Act.**

2

---