

D R A F T

SUMMARY

Provides that culpable mental state applies to each material conduct element unless statutory language or legislative intent plainly indicates otherwise.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to mental states; amending ORS 161.095 and 161.115; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 161.095 is amended to read:

6 161.095. (1) The minimal requirement for criminal liability is the per-
7 formance by a person of conduct which includes a voluntary act or the
8 omission to perform an act which the person is capable of performing.

9 (2) Except as provided in ORS 161.105, a person is not guilty of an offense
10 unless the person acts with a culpable mental state with respect to each
11 material **conduct** element of the offense [*that necessarily requires a culpable*
12 *mental state*].

13 **SECTION 2.** ORS 161.115 is amended to read:

14 161.115. [*(1) If a statute defining an offense prescribes a culpable mental*
15 *state but does not specify the element to which it applies, the prescribed cul-*
16 *pable mental state applies to each material element of the offense that neces-*
17 *sarily requires a culpable mental state.*]

18 (1) **The prescribed culpable mental state for an offense applies to**
19 **each material conduct element of the offense unless:**

20 (a) **The statute defining the offense plainly indicates that the cul-**

1 **pable mental state applies to a material element that is not a conduct**
2 **element; or**

3 **(b) An inquiry into the intent of the legislature under ORS 174.020**
4 **plainly indicates that the culpable mental state applies to a material**
5 **element that is not a conduct element.**

6 (2) Except as provided in ORS 161.105, if a statute defining an offense
7 does not prescribe a culpable mental state, culpability is nonetheless re-
8 quired and is established only if a person acts intentionally, knowingly,
9 recklessly or with criminal negligence.

10 (3) If the definition of an offense prescribes criminal negligence as the
11 culpable mental state, it is also established if a person acts intentionally,
12 knowingly or recklessly. When recklessness suffices to establish a culpable
13 mental state, it is also established if a person acts intentionally or know-
14 ingly. When acting knowingly suffices to establish a culpable mental state,
15 it is also established if a person acts intentionally.

16 (4) Knowledge that conduct constitutes an offense, or knowledge of the
17 existence, meaning or application of the statute defining an offense, is not
18 an element of an offense unless the statute clearly so provides.

19 **SECTION 3. This 2023 Act takes effect on the 91st day after the date**
20 **on which the 2023 regular session of the Eighty-second Legislative**
21 **Assembly adjourns sine die.**

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