

House Bill 2323

Introduced and printed pursuant to House Rule 12.00. 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**.

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

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

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

4 161.095. (1) The minimal requirement for criminal liability is the performance by a person of
5 conduct which includes a voluntary act or the omission to perform an act which the person is ca-
6 pable of performing.
7

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

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

12 161.115. [*(1) If a statute defining an offense prescribes a culpable mental state but does not specify*
13 *the element to which it applies, the prescribed culpable mental state applies to each material element*
14 *of the offense that necessarily requires a culpable mental state.*]

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

17 (a) **The statute defining the offense plainly indicates that the culpable mental state ap-**
18 **plies to a material element that is not a conduct element; or**

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

21 (2) Except as provided in ORS 161.105, if a statute defining an offense does not prescribe a
22 culpable mental state, culpability is nonetheless required and is established only if a person acts
23 intentionally, knowingly, recklessly or with criminal negligence.

24 (3) If the definition of an offense prescribes criminal negligence as the culpable mental state, it
25 is also established if a person acts intentionally, knowingly or recklessly. When recklessness suffices
26 to establish a culpable mental state, it is also established if a person acts intentionally or knowingly.
27 When acting knowingly suffices to establish a culpable mental state, it is also established if a person
28 acts intentionally.

29 (4) Knowledge that conduct constitutes an offense, or knowledge of the existence, meaning or
30 application of the statute defining an offense, is not an element of an offense unless the statute

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 clearly so provides.

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

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