

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINAL OFFENSES

Introduced By: Senators Walaska, and Shibley

Date Introduced: April 12, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 69

4 CRIMINAL INTENT PROTECTION ACT

5 **11-69-1. Title.** – This chapter shall be known and may be cited as the “Criminal Intent  
6 Protection Act.”

7 **11-69-2. Legislative findings.** – The general assembly hereby intends to assure that  
8 citizens accused of a criminal act be found guilty of intentionally committing a crime by setting  
9 standards for proof of criminal intent in cases where a statute does not otherwise impose such  
10 standards. Too often overzealous prosecution can lead to a criminal conviction for what would  
11 better be classified as a mistake rather than a crime, and no citizen should be prosecuted for a  
12 crime that they did not intend to commit. We find that our judicial system provides alternate  
13 remedies for those wronged by the unintentional actions of others, and criminal prosecution  
14 should be reserved for those found to have had criminal intent.

15 **11-69-3. Culpability requirements.** – (a) The provisions of this section shall apply to  
16 any criminal offense.

17 (b) When the language defining a criminal offense does not specify the criminal intent  
18 required to establish an element of the offense, then such element shall be established only if a  
19 person acts:

- 1 (1) With the conscious object to engage in conduct of the nature constituting the element;  
2 (2) With the conscious object to cause such a result required by the element;  
3 (3) With an awareness of the existence of any attendant circumstances required by the  
4 element or with the belief or hope that such circumstances exist; and  
5 (4) With either specific intent to violate the law or with knowledge that the person's  
6 conduct is unlawful.

7 (c) When the language defining a criminal offense specifies the criminal intent required  
8 to establish commission of an offense without specifying the particular elements to which the  
9 criminal intent requirement applies, such criminal intent requirement shall apply to all elements  
10 of the offense, including jurisdictional elements.

11 **11-69-4. Definitions** – For the purposes of this section, the following definitions shall  
12 apply:

13 (1) "Criminal offense" means any portion of a statute, rule, or guidance that defines one  
14 or more elements of a violation of law that may be punished by a criminal penalty.

15 (2) "Penalty" means any criminal fine, criminal restitution, criminal forfeiture, term of  
16 imprisonment, confinement, probation, or debarment imposed upon a defendant by the authority  
17 of the law and the judgment and sentence of a court.

18 (3) "Person," "he," or "actor" means any natural person, corporation, or unincorporated  
19 association.

20 (4) "Rule" shall have the definition set forth in subdivision 42-35-1(8), and shall include  
21 any interpretive rule, guidance, or other agency publication that may have the effect of altering  
22 the scope of state criminal liability of any person or entity, but shall not include any order issued  
23 as part of an adjudication under the "Administrative Procedures Act," chapter 42-35.

24 (5) "Guidance" means any guidance, interpretative statement, or binding enforcement  
25 policy issued by any agency.

26 (5) "Agency" shall have the definition set forth in subdivision 42-35-1(1).

27 (7) "Element" means such conduct, such attendant circumstances, or such a result of  
28 conduct as:

29 (i) Is included in the description of the prohibited conduct in the definition of the offense;  
30 or

31 (ii) Establishes the requisite kind of culpability; or

32 (iii) Negates an excuse or justification for such conduct; or

33 (iv) Negates a defense under the statute of limitations; or

34 (v) Establishes jurisdiction or venue.

1           **11-69-5. Severability.** – If any provision of this chapter or the application thereof to any  
2 person or circumstance is held unconstitutional or otherwise invalid, the remaining provisions of  
3 this chapter and the application of such provisions to other persons or circumstances shall not be  
4 affected thereby.

5           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES

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1           This act would establish default rules of application to ensure that criminal intent (“mens  
2    rea”) requirements contained in the general laws are adequate to protect persons against unjust  
3    charges and convictions where the law has heretofore failed to clearly and expressly set forth the  
4    criminal intent requirements in the provision of law defining the offense.

5           This act would take effect upon passage.

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