

2014 -- S 2653

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO CRIMINAL OFFENSES -- CRIMINAL INTENT

Introduced By: Senator William A. Walaska

Date Introduced: March 04, 2014

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 THE 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. It is not the intent of this
15 legislation, however, to alter any criminal intent requirement previously enacted by the legislature
16 or established in accordance with the common law, nor is it the intent of this legislation to alter
17 any requirement with respect to standards for the prosecution of traditionally defined general
18 intent crimes.

19 **11-69-3. Culpability requirements.** -- (a) The provisions of this section shall apply to

1 any criminal offense or penalty, excluding any offense or penalty;
2 (1) Defined pursuant to §11-1-1;
3 (2) Defined pursuant to §11-1-3 through §11-1-11;
4 (3) Defined pursuant to chapter 11-2;
5 (4) Defined pursuant to chapter 11-4 through 11-23;
6 (5) Defined pursuant to chapter 11-25 through 11-45;
7 (6) Defined pursuant to chapter 11-47 through 11-61; and
8 (7) Defined pursuant to chapter 11-64 through 11-68.
9 (b) When the language defining a criminal offense does not specify the criminal intent
10 required to establish an element of the offense, then such element shall be established only if a
11 person acts:
12 (1) With the conscious object to engage in conduct of the nature constituting the element;
13 (2) With the conscious object to cause such a result required by the element;
14 (3) With an awareness of the existence of any attendant circumstances required by the
15 element or with the belief or hope that such circumstances exist; and
16 (4) With either specific intent to violate the law or with knowledge that the person's
17 conduct is unlawful.
18 (c) When the language defining a criminal offense specifies the criminal intent required
19 to establish commission of an offense without specifying the particular elements to which the
20 criminal intent requirement applies, such criminal intent requirement shall apply to all elements
21 of the offense, including jurisdictional elements.
22 **11-69-4. Definitions.** -- For the purposes of this section, the following definitions shall
23 apply:
24 (1) "Criminal offense" means any portion of a statute, rule, or guidance that defines one
25 or more elements of a violation of law that may be punished by a criminal penalty.
26 (2) "Penalty" means any criminal fine, criminal restitution, criminal forfeiture, term of
27 imprisonment, confinement, probation, or debarment imposed upon a defendant by the authority
28 of the law and the judgment and sentence of a court.
29 (3) "Person," "he,"/ "she" or "actor" means any natural person, corporation, or
30 unincorporated association.
31 (4) "Rule" means and shall have the definition set forth in §42-35-1(18), and include any
32 interpretive rule, guidance, or other agency publication that may have the effect of altering the
33 scope of state criminal liability of any person or entity, but shall not include any order issued as
34 part of an adjudication under the "Administrative Procedures Act," chapter 42-35.

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

3 (6) "Agency" shall have the definition set forth in §42-35-1(1).

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

6 (i) Is included in the description of the prohibited conduct in the definition of the offense;

7 or

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

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

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

11 (v) Establishes jurisdiction or venue.

12 **11-69-5. Severability. --** If any provision of this chapter or the application thereof to any
13 person or circumstance is held unconstitutional or otherwise invalid, the remaining provisions of
14 this chapter and the application of such provisions to other persons or circumstances shall not be
15 affected thereby.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would require that each element of a criminal offense be considered proven only
2 after criminal intent is established, and be applied in cases where the language of the criminal
3 statute itself doesn't explicitly identify the required criminal intent.

4 This act would take effect upon passage.

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