

## CHAPTER 1

### CRIMINAL ACT AND MENTAL STATE

#### SECTION:

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#### 11-1-1: **VOLUNTARY ACT:**

Unless it is stated otherwise, a material element of every offense is a voluntary act, which includes an omission to perform a duty which the law imposes on the offender and which the offender is physically capable of performing.

#### 11-1-2: **POSSESSION AS VOLUNTARY ACT:**

Possession is a voluntary act if the offender knowingly procured or received the thing possessed, or was aware of having control over the thing for a sufficient time to have been able to terminate possession.

#### 11-1-3: **MENTAL STATE:**

- A. A person is not guilty of an offense, other than an offense which involves absolute liability, unless, with respect to each element described by the section defining the offense, the person acts while having one of the mental states described in Sections 11-1-4 through 11-1-7.
- B. If the section defining an offense prescribes a particular mental state with respect to the offense as a whole, without distinguishing among the elements thereof, the prescribed mental state applies to each element. If the section

does not prescribe a particular mental state applicable to an element of an offense (other than an offense which involves absolute liability), any mental state defined in Sections 11-1-4, 11-1-5 or 11-1-6 is applicable.

- C. Knowledge that certain conduct constitutes an offense, or knowledge of the existence, meaning, or application of the section defining an offense, is not an element of the offense unless the section clearly defines it as such.

**11-1-4: INTENT:**

A person intends, or acts intentionally or with intent, to accomplish a result or engage in conduct described by the section defining the offense, when the conscious objective or purpose is to accomplish that result or engage in that conduct.

**11-1-5: KNOWLEDGE:**

A person knows, or acts knowingly or with knowledge of:

- A. The nature or attendant circumstances of his or her conduct, described by the Section defining the offense, when the person is consciously aware that the conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
- B. The result of his or her conduct, described by the section defining the offense, when he or she is consciously aware that such result is practically certain to be caused by his conduct.

Conduct performed knowingly or with knowledge is performed willfully, within the meaning of a section using the latter term, unless the section clearly requires another meaning.

**11-1-6: RECKLESSNESS:**

A person is reckless or acts recklessly when he or she consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, described by the section defining the offense; and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. An act performed recklessly is

performed wantonly, within the meaning of a section using the latter term, unless the section clearly requires another meaning.

**11-1-7: NEGLIGENCE:**

A person is negligent, or acts negligently, when he or she fails to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, described by the section defining the offense; and such failure constitutes a substantial deviation from the standard of care which a reasonable person would exercise in the situation.

**11-1-8: IGNORANCE OR MISTAKE:**

- A. A person's ignorance or mistake as to a matter of either fact or law, except as provided in Section 11-1-3C of this Chapter, is a defense only if it indicates that the existence of the mental state which the statute prescribes with respect to an element of the offense did not exist at the time of the offense.
- B. A person's reasonable belief that his conduct does not constitute an offense is a defense if:
  - 1. The offense is defined by an administrative regulation or order which is not known to the person and has not been published or otherwise made reasonably available, and he or she could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to the person; or
  - 2. The person acts in reliance upon a section which later is determined to be invalid; or
  - 3. The person acts in reliance upon an order or opinion of an Illinois Appellate or Supreme Court, or a United States Appellate Court later overruled or reversed; or
- C. Although a person's ignorance or mistake of fact or law, or reasonable belief, described in this Section 11-1-8 may be a defense to the offense charged, he or she may be found guilty of an included offense of which he or she would be guilty if the fact or law were as the person believed it to be.
- D. A defense based upon this Section 11-1-8 is an affirmative defense.

**11-1-9: ABSOLUTE LIABILITY:**

A person may be guilty of an offense without having, as to each element, one of the mental states described in Sections 11-1-4 through 11-1-7 if the offense is a misdemeanor which is not punishable by incarceration or by a fine in accordance with the Comprehensive Fine/Penalty Schedule set forth in Chapter 17 of Title 1 of this Code, or the section defining the offense clearly indicates a legislative purpose to impose absolute liability for the conduct prescribed.