

APPENDIX A
(DEFINITIONS AND COURT JURISDICTION)

MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED

PENAL LAW
(Current through 2005)

§ 1.05 General purposes

The general purposes of the provisions of this chapter are:

1. To proscribe conduct which unjustifiably and inexcusably causes or threatens substantial harm to individual or public interests;
2. To give fair warning of the nature of the conduct proscribed and of the sentences authorized upon conviction;
3. To define the act or omission and the accompanying mental state which constitute each offense;
4. To differentiate on reasonable grounds between serious and minor offenses and to prescribe proportionate penalties therefor;
5. To provide for an appropriate public response to particular offenses, including consideration of the consequences of the offense for the victim, including the victim's family, and the community; and
6. To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted, and their confinement when required in the interests of public protection.

§ 10.00 Definitions of terms of general use in this chapter

Except where different meanings are expressly specified in subsequent provisions of this chapter, the following terms have the following meanings:

1. "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state, or by any order, rule or regulation of any governmental instrumentality authorized by law to adopt the same.
2. "Traffic infraction" means any offense defined as "traffic infraction" by section one hundred fifty-five of the vehicle and traffic law.
3. "Violation" means an offense, other than a "traffic infraction," for which a sentence to a term of imprisonment in excess of fifteen days cannot be imposed.
4. "Misdemeanor" means an offense, other than a "traffic infraction," for which a sentence to a term of imprisonment in excess of fifteen days may be imposed, but for which a sentence to a term of imprisonment in excess of one year cannot be imposed.
5. "Felony" means an offense for which a sentence to a term of imprisonment in excess of one year may be imposed.
6. "Crime" means a misdemeanor or a felony.

7. "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.
8. "Possess" means to have physical possession or otherwise to exercise dominion or control over tangible property.
9. "Physical injury" means impairment of physical condition or substantial pain.
10. "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
11. "Deadly physical force" means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
12. "Deadly weapon" means any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, or metal knuckles.
13. "Dangerous instrument" means any instrument, article or substance, including a "vehicle" as that term is defined in this section, which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or other serious physical injury.
14. "Vehicle" means a "motor vehicle", "trailer" or "semi-trailer," as defined in the vehicle and traffic law, any snowmobile as defined in the parks and recreation law, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.
15. "Public servant" means (a) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (b) any person exercising the functions of any such public officer or employee. The term public servant includes a person who has been elected or designated to become a public servant.
16. "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court in this state or by any public servant authorized by law to impanel a jury. The term juror also includes a person who has been drawn or summoned to attend as a prospective juror.
17. "Benefit" means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.
18. "Juvenile offender" means (1) a person thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of this chapter; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (sodomy in the first degree); 130.70 (aggravated sexual abuse); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; subdivision four of section 265.02 of this chapter, where such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this

chapter as an attempt to commit murder in the second degree or kidnapping in the first degree.

19. For the purposes of section 260.30 and 120.01 of this chapter the term "child day care provider" shall be defined as provided for in section three hundred ninety of the social services law.

§ 15.00 Culpability; definitions of terms

The following definitions are applicable to this chapter:

1. "Act" means a bodily movement.
2. "Voluntary act" means a bodily movement performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.
3. "Omission" means a failure to perform an act as to which a duty of performance is imposed by law.
4. "Conduct" means an act or omission and its accompanying mental state.
5. "To act" means either to perform an act or to omit to perform an act.
6. "Culpable mental state" means "intentionally" or "knowingly" or "recklessly" or with "criminal negligence," as these terms are defined in section 15.05.

§ 15.05 Culpability; definitions of culpable mental states

The following definitions are applicable to this chapter:

1. "Intentionally." A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause such result or to engage in such conduct.
2. "Knowingly." A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists.
3. "Recklessly." A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto.
4. "Criminal negligence." A person acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

§ 15.10 Requirements for criminal liability in general and for offenses of strict liability and mental culpability

The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If such conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, such offense is one of "strict liability." If a culpable mental state on the part of the actor is required with respect to every material element of an offense, such offense is one of

"mental culpability."

§ 15.15 Construction of statutes with respect to culpability requirements

1. When the commission of an offense defined in this chapter, or some element of an offense, requires a particular culpable mental state, such mental state is ordinarily designated in the statute defining the offense by use of the terms "intentionally," "knowingly," "recklessly" or "criminal negligence," or by use of terms, such as "with intent to defraud" and "knowing it to be false," describing a specific kind of intent or knowledge. When one and only one of such terms appears in a statute defining an offense, it is presumed to apply to every element of the offense unless an intent to limit its application clearly appears.

2. Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state. A statute defining a crime, unless clearly indicating a legislative intent to impose strict liability, should be construed as defining a crime of mental culpability. This subdivision applies to offenses defined both in and outside this chapter.

§ 15.20 Effect of ignorance or mistake upon liability

1. A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief of fact, unless:

(a) Such factual mistake negatives the culpable mental state required for the commission of an offense; or

(b) The statute defining the offense or a statute related thereto expressly provides that such factual mistake constitutes a defense or exemption; or

(c) Such factual mistake is of a kind that supports a defense of justification as defined in article thirty-five of this chapter.

2. A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless such mistaken belief is founded upon an official statement of the law contained in (a) a statute or other enactment, or (b) an administrative order or grant of permission, or (c) a judicial decision of a state or federal court, or (d) an interpretation of the statute or law relating to the offense, officially made or issued by a public servant, agency or body legally charged or empowered with the responsibility or privilege of administering, enforcing or interpreting such statute or law.

3. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the age of a child is an element thereof, knowledge by the defendant of the age of such child is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be the same as or greater than that specified in the statute.

4. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the aggregate weight of a controlled substance or marihuana is an element, knowledge by the defendant of the aggregate weight of such controlled substance or marihuana is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the aggregate weight of the controlled substance or marihuana.

§ 15.25 Effect of intoxication upon liability

Intoxication is not, as such, a defense to a criminal charge; but in any prosecution for an offense, evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negative an element of the crime charged.

**MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED
CRIMINAL PROCEDURE LAW**

§ 10.10 The criminal courts; enumeration and definitions

1. The "criminal courts" of this state are comprised of the superior courts and the local criminal courts.
2. "Superior court" means:
 - (a) The supreme court; or
 - (b) A county court.
3. "Local criminal court" means:
 - (a) A district court; or
 - (b) The New York City criminal court; or
 - (c) A city court; or
 - (d) A town court; or
 - (e) A village court; or
 - (f) A supreme court justice sitting as a local criminal court; or
 - (g) A county judge sitting as a local criminal court.
4. "City court" means any court for a city, other than New York City, having trial jurisdiction of offenses of less than felony grade only committed within such city, whether such court is entitled a city court, a municipal court, a police court, a recorder's court or is known by any other name or title.
5. "Town court." A "town court" is comprised of all the town justices of a town.
6. "Village court." A "village court" is comprised of the justice of a village, or all the justices thereof if there be more than one, or, at a time when he or they are absent, an acting justice of a village who is authorized to perform the functions of a village justice during his absence.
7. Notwithstanding any other provision of this section, a court specified herein which possesses civil as well as criminal jurisdiction does not act as a criminal court when acting solely in the exercise of its civil jurisdiction, and an order or determination made by such a court in its civil capacity is not an order or determination of a criminal court even though it may terminate or otherwise control or affect a criminal action or proceeding.

§ 10.20 Superior courts; jurisdiction

1. Superior courts have trial jurisdiction of all offenses. They have:
 - (a) Exclusive trial jurisdiction of felonies; and
 - (b) Trial jurisdiction of misdemeanors concurrent with that of the local criminal courts; and
 - (c) Trial jurisdiction of petty offenses, but only when such an offense is charged in an indictment which also charges a crime.
2. Superior courts have preliminary jurisdiction of all offenses, but they exercise such jurisdiction only by reason of and through the agency of their grand juries.
3. Superior court judges may, in their discretion, sit as local criminal courts for the following purposes:
 - (a) conducting arraignments, as provided in subdivision two of section 170.15 and subdivision two of section 180.20 of this chapter;

(b) issuing warrants of arrests, as provided in subdivision one of section 120.70 of this chapter; and

(c) issuing search warrants, as provided in article six hundred ninety of this chapter.

§ 10.30 Local criminal courts; jurisdiction

1. Local criminal courts have trial jurisdiction of all offenses other than felonies. They have:

(a) Exclusive trial jurisdiction of petty offenses except for the superior court jurisdiction thereof prescribed in paragraph (c) of subdivision one of section 10.20; and

(b) Trial jurisdiction of misdemeanors concurrent with that of the superior courts but subject to divestiture thereof by the latter in any particular case.

2. Local criminal courts have preliminary jurisdiction of all offenses subject to divestiture thereof in any particular case by the superior courts and their grand juries.

3. Notwithstanding the provisions of subdivision one, a superior court judge sitting as a local criminal court does not have trial jurisdiction of any offense, but has preliminary jurisdiction only, as provided in subdivision two.

§ 20.10 Geographical jurisdiction of offenses; definitions of terms

The following definitions are applicable to this article:

1. "This state" means New York State as its boundaries are prescribed in the state law, and the space over it.

2. "County" means any of the sixty-two counties of this state as its boundaries are prescribed by law, and the space over it.

3. "Result of an offense." When a specific consequence, such as the death of the victim in a homicide case, is an element of an offense, the occurrence of such consequence constitutes the "result" of such offense. An offense of which a result is an element is a "result offense."

4. "Particular effect of an offense." When conduct constituting an offense produces consequences which, though not necessarily amounting to a result or element of such offense, have a materially harmful impact upon the governmental processes or community welfare of a particular jurisdiction, or result in the defrauding of persons in such jurisdiction, such conduct and offense have a "particular effect" upon such jurisdiction.

§ 20.20 Geographical jurisdiction of offenses; jurisdiction of state

Except as otherwise provided in this section and section 20.30, a person may be convicted in the criminal courts of this state of an offense defined by the laws of this state, committed either by his own conduct or by the conduct of another for which he is legally accountable pursuant to section 20.00 of the penal law, when:

1. Conduct occurred within this state sufficient to establish:

(a) An element of such offense; or

(b) An attempt to commit such offense; or

(c) A conspiracy or criminal solicitation to commit such offense, or otherwise to establish the complicity of at least one of the persons liable therefor; provided that the jurisdiction accorded by this paragraph extends only to conviction of those persons whose conspiratorial or other conduct of complicity occurred within this state; or

2. Even though none of the conduct constituting such offense may have occurred within this state:

(a) The offense committed was a result offense and the result occurred within this state. If the offense was one of homicide, it is presumed that the result, namely the death of the victim, occurred within this state if the victim's body or a part thereof was found herein; or

(b) The statute defining the offense is designed to prevent the occurrence of a particular effect in this state and the conduct constituting the offense committed was performed with intent that it would have such effect herein; or

(c) The offense committed was an attempt to commit a crime within this state; or

(d) The offense committed was conspiracy to commit a crime within this state and an overt act in furtherance of such conspiracy occurred within this state; or

3. The offense committed was one of omission to perform within this state a duty imposed by the laws of this state. In such case, it is immaterial whether such person was within or outside this state at the time of the omission.

§ 20.40 Geographical jurisdiction of offenses; jurisdiction of counties

A person may be convicted in an appropriate criminal court of a particular county, of an offense of which the criminal courts of this state have jurisdiction pursuant to section 20.20, committed either by his own conduct or by the conduct of another for which he is legally accountable pursuant to section 20.00 of the penal law, when:

1. Conduct occurred within such county sufficient to establish:

(a) An element of such offense; or

(b) An attempt or a conspiracy to commit such offense; or

2. Even though none of the conduct constituting such offense may have occurred within such county:

(a) The offense committed was a result offense and the result occurred in such county; or

(b) The offense committed was one of homicide and the victim's body or a part thereof was found in such county; or

(c) Such conduct had, or was likely to have, a particular effect upon such county or a political subdivision or part thereof, and was performed with intent that it would, or with knowledge that it was likely to, have such particular effect therein; or

(d) The offense committed was attempt, conspiracy or criminal solicitation to commit a crime in such county; or

(e) The offense committed was criminal facilitation of a felony committed in such county; or

3. The offense committed was one of omission to perform a duty imposed by law, which duty either was required to be or could properly have been performed in such county. In such case, it is immaterial whether such person was within or outside such county at the time of the omission; or

4. Jurisdiction of such offense is accorded to the courts of such county pursuant to any of the following rules:

(a) An offense of abandonment of a child or non-support of a child may be prosecuted in (i) any county in which such child resided during the period of abandonment or nonsupport, or (ii) any county in which such person resided during such period, or (iii) any county in which such person was present during such period, provided that he was arrested for such offense in such county or the criminal action therefor was commenced while he was present therein.

(b) An offense of bigamy may be prosecuted either in the county in which such offense was committed or in (i) any county in which bigamous cohabitation subsequently occurred, or (ii) any county in which such person was present after the commission of the offense, provided that he was arrested for such offense in such county or the criminal action therefor was commenced while he was present therein.

(c) An offense committed within five hundred yards of the boundary of a particular county, and in an adjoining county of this state, may be prosecuted in either such county.

(d) An offense committed anywhere on the Hudson river southward of the northern boundary of New York City, or anywhere on New York bay between Staten Island and Long Island, may be prosecuted in any of the five counties of New York City.

(e) An offense committed upon any bridge or in any tunnel having terminals in different counties may be prosecuted in any terminal county.

(f) An offense committed on board a railroad train, aircraft or omnibus operating as a common carrier may be prosecuted in any county through or over which such common carrier passed during the particular trip, or in any county in which such trip terminated or was scheduled to terminate.

(g) An offense committed in a private vehicle during a trip thereof extending through more than one county may be prosecuted in any county through which such vehicle passed in the course of such trip.

(h) An offense committed on board a vessel navigating or lying in any river, canal or lake flowing through or situated within this state, may be prosecuted in any county bordering upon such body of water, or in which it is located, or through which it passes; and if such offense was committed upon a vessel operating as a common carrier, it may be prosecuted in any county bordering upon any body of water upon which such vessel navigated or passed during the particular trip.

(i) An offense committed in the Atlantic Ocean within two nautical miles from the shore at high water mark may be prosecuted in an appropriate court of the county the shore line of which is closest to the point where the offense was committed. A crime committed more than two nautical miles from the shore but within the boundary of this state may be prosecuted in the supreme court of the county the shore line of which is closest to the point where the crime was committed.

(j) An offense of forgery may be prosecuted in any county in which the defendant, or another for whose conduct the defendant is legally accountable pursuant to section 20.00 of the penal law, possessed the instrument.

(k) An offense of offering of a false instrument for filing, or of larceny by means of a false pretense therein, may be prosecuted (i) in any county in which such instrument was executed, in whole or in part, or (ii) in any county in which any of the goods or services for which payment or reimbursement is sought by means of such instrument were purported to have been provided.

§ 20.50 Geographical jurisdiction of offenses; jurisdiction of cities, towns and villages

1. The principles prescribed in section 20.40, governing geographical jurisdiction over offenses as between counties of this state, are, where appropriate, applicable to the determination of geographical jurisdiction over offenses as between cities, towns and villages within a particular county unless a different determination is required by the provisions of some other express provision of statute.

2. Where an offense prosecutable in a local criminal court is committed in a city other than New York City, or in a town or village, but within one hundred yards of any other such political subdivision, it may be prosecuted in either such political subdivision.