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Chapter 161

1965 REPLACEMENT PART

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GENERAL RULES APPLICABLE TO CRIMINAL STATUTES

161.010 Definitions. As used in the statutes relating to crimes and criminal procedure, unless the context requires otherwise:

(1) "Wilfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or omission referred to, and does not require any intent to violate law, to injure another or to acquire any advantage.

(2) "Neglect," "negligence," "negligent" and "negligently" import a want of such attention to the nature or probable consequences of the act or omission referred to as a prudent man ordinarily bestows in acting in his own concerns.

(3) "Corruptly" imports a wrongful design to acquire some pecuniary or other advantage to the person guilty of the act or omission referred to.

(4) "Malice" and "maliciously" import a wish to vex, annoy or injure another person, established either by proof or presumption of law.

(5) "Wrongfully," when applied to the commission of an act, implies simply that the act was done in violation of right or without authority of law.

(6) "Wantonly," when applied to the commission of an act, implies that the act was done with a purpose to injure or destroy without cause and without reference to any particular person.

(7) "Knowingly" imports only a knowledge that the facts exist, which bring the act or omission within the provisions of the criminal statutes, and does not require any knowledge of the unlawfulness of the act or omission.

(8) "Signature" includes any name, mark or sign written with intent to authenticate any instrument or writing.

(9) "Writing" includes printing.

(10) "Property" includes both real and personal property.

(11) "Person" includes corporations as well as natural persons. Where "person" is used to designate the party whose property may be the subject of a crime, it includes this state, any other state, government or country which may lawfully own any property in this state, and all municipal, public or private corporations, as well as individuals.

161.020 Crime defined. A crime or public offense is an act or omission forbidden by law and punishable upon conviction by any of the following punishments:

(1) Death
(2) Imprisonment
(3) Fine
(4) Removal from office
(5) Disqualification to hold and enjoy any office of honor, trust or profit under the Constitution or laws of this state.

161.030 Felonies and misdemeanors defined. (1) Crimes are divided into felonies and misdemeanors.

(2) A felony is a crime which is punishable with death or by imprisonment in the penitentiary of this state. When a crime punishable by imprisonment in the penitentiary is also punishable by a fine or imprisonment in a county jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes, after a judgment imposing a punishment other than imprisonment in the penitentiary or in the Oregon State Correctional Institution.

(3) Every crime not included in subsection (2) of this section is a misdemeanor. [Amended by 1955 c.660 §20]

161.040 Amendment or repeal of statute as affecting prosecution and punishment of violators. When all or a part of a criminal statute is amended or repealed, the criminal statute or part thereof so amended or repealed remains in force for the purpose of authorizing the prosecution, indictment, trial, conviction and punishment of all persons who violated such criminal statute or part thereof prior to the effective date of the amending or repealing Act.

161.050 Construction of penal statutes. The rule of the common law that penal statutes are to be strictly construed has no application to the criminal and criminal procedure statutes of this state. Their provisions shall be construed according to the fair import of their terms with a view to effect their objects and to promote justice.

161.060 Criminal prosecution not to exclude other remedy. The omission to specify or affirm in the criminal and criminal procedure statutes any liability for damages, penalty forfeiture or other remedy imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable in the criminal statutes, does not affect any right to recover or enforce the same.

161.070 Forfeiture of property upon conviction. No conviction of any person for a crime works a forfeiture of his property, except in cases where a forfeiture is expressly provided by law.

161.075 Fine for violation when imprisonment in penitentiary is authorized but fine is not otherwise provided. Any violation of the statutes of this state that is punishable, upon conviction, by imprisonment in the penitentiary, and for which a fine is not otherwise provided, is punishable by a fine of not more than $500 in addition to and not in lieu of such imprisonment.
[1965 c.516 §1]

161.080 Misdemeanors; punishment when penalty not prescribed. Whenever an act is declared to be a misdemeanor and no punishment is prescribed therefor, the person committing the act shall be punished upon conviction by imprisonment in the county jail for not more than one year, or by fine of not more than $500, or both.

161.090 Punishment for attempt to commit crime. Any person who attempts to commit a crime, and in the attempt does any act towards the commission of the crime but fails or is prevented or intercepted in the perpetration thereof, shall be punished upon conviction, when no other provision is made by law for the punishment of such attempt, as follows:

(1) If the crime so attempted is punishable by imprisonment in the penitentiary or county jail, the punishment for the attempt shall be by like imprisonment for a term not more than half the longest period prescribed as a punishment for the crime but in no event more than 10 years. If the crime so attempted is punishable by death, or imprisonment for life, the punishment for the attempt shall be by imprisonment in the penitentiary for not more than 10 years.

(2) If the crime so attempted is punishable by fine, the punishment for the attempt shall be by a fine not exceeding half the amount of the largest fine prescribed as a punishment for the crime.

161.100 Punishment for attempt when different crime committed. ORS 161.090 shall not be construed to protect a person who, in attempting unsuccessfully to commit a crime, accomplishes a different crime, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

161.110 What constitutes an intent to defraud. Whenever, by any provision of the criminal or criminal procedure statutes, an intent to defraud is necessary to constitute a crime, it is sufficient if an intent appears to defraud any person, body politic or corporation.

161.120 Punishment for failure to act when another has performed. No person is punishable for an omission to perform an act which has been performed by another person acting in his behalf and competent by law to perform it.

161.130 to 161.200 [Reserved for expansion]

PARTIES TO CRIME

161.210 Principals and accessories. (1) The parties to crimes are classified as principals and accessories.

(2) There are no accessories in misdemeanors.

161.220 Common law distinctions abrogated; principals defined. The distinction in felonies between an accessory before the fact and a principal, and between principals in the first and second degree, is abrogated. All persons concerned in the commission of a felony or misdemeanor, whether they directly commit the act constituting the crime or aid and abet in its commission, though not present, are principals and shall be indicted, tried, and punished as principals.

161.230 Accessories defined. All persons are accessories who, after the commission of any felony, conceal or aid the offender, with knowledge that he has committed a felony, and with intent that he may avoid or escape from arrest, trial, conviction or punishment.

161.240 Punishment of accessory. Except where a different punishment is prescribed by law, an accessory, upon conviction, shall be punished by imprisonment in the penitentiary for not more than five years, or by imprisonment in the county jail for not less than three months nor more than one year, or by fine of not less than $100 nor more than $500.

161.250 Accessory punishable though principal not tried. An accessory may be indicted, tried and punished though the principal is not indicted or tried.

161.260 to 161.300 [Reserved for expansion]

MISCELLANEOUS CRIMES

161.310 Punishment for gross injury to another's person or property and offenses against public peace, health or morals. If no punishment is expressly prescribed for the act by the criminal statutes, any person who wilfully and wrongfully commits any act which grossly injures the person or property of another, or which grossly disturbs the public peace or health, or which openly outrages the public decency and is injurious to public morals, upon conviction, shall be punished by imprisonment in the county jail for not less than one month nor more than six months, or by fine not less than $50 nor more than $200.

161.320 Conspiracy to commit felony. If two or more persons conspire to commit any felony defined and made punishable by the laws of this state and one or more of the parties does any act to effect the object of the conspiracy, each of the parties to the conspiracy, upon conviction, shall be punished by imprisonment in the state penitentiary for not more than three years or by a fine of not more than $1,000, or both.

161.330 Threatening or advocating commission of felony. Any person who threatens or advocates by speech, writing, printing, drawing, or by any other method, the commission of a felony, shall be guilty of a crime and upon conviction shall be punished by a fine of not less than $50 nor more than $1,000, or by imprisonment in the county jail for not less than one month nor more than one year, or by imprisonment in the penitentiary for not more than five years, or by both fine and imprisonment.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel