

Chapter 6 Key Terms

Absolute Exemption: in relation with marital exemption; some states retain an absolute exemption, under no condition can the state prosecute a husband for sexual battery upon his wife.

Actus Rea: The elements or physical acts that define a particular crime

Aggravated Assault: a felony, differs from simple with the presence of a weapon “I’m going to hit you with my hammer”

Aggravated Battery: felony, involves a weapon or item used as a weapon, serious bodily harm, disability, or disfigurement

Armed Robbery: a firearm or some other weapon is used to carry out the robbery; many states have a mandatory sentencing law whenever a firearm is used in a crime. If the suspect has employed a gun or a rifle, the judge has no choice except to impose a predetermined minimum sentence

Assault: occurs when one person threatens to hurt another person; 2 elements must be present. The person making the threat must be able to carry out his or her intentions. Also, the assailant must place the victim in genuine fear for his or her well-being. There are 2 types of assault- simple and aggravated.

Attempt: the failure to finish the criminal act

Battery: a successful assault; involves the intentional touching or striking of a person against that person’s will. The offender must also intend to injure the victim.

Burglary: involves trespass along with the intent to commit another crime, usually a theft- but any other offense can fulfill this requirement

Child Stealing: usually arises in parental custody disputes; ex: mom and dad are divorced, mom is awarded primary custody, dad gets weekend visitation and is supposed to return the child on Sunday, instead he keeps the child and brings him to another state—since the dad is violating the court order he has committed child stealing

Conspiracy: an agreement or pact between two or more persons concerning some unlawful activity. The agreement may deal with the actual commission of a crime, the planning behind the enactment of a crime, or any other form of assistance that helps to facilitate a crime

Corpus Delicti: body of a crime; contains 2 parts the mens rea and actus rea

Criminal Mischief: AKA vandalism; the 2 terms are used interchangeably

Curtilage: the immediate living area surrounding a dwelling; has a roof covering the area (garage, house, porch, shed, carport)

Deliberation: the person has thought over the consequences and has still decided to kill the victim, (part of 1st degree murder)

Elements: the actions that constitute a particular crime

Embezzlement: the fraudulent conversion of someone else’s property

Equivocality Approach: a test the courts have used to determine if a crime was attempted; think of an audience watching a videotape, suddenly someone stops the videotape, if the reasonable response is that a crime was about to happen then an attempt to commit that crime is taking place

Excusable Homicide: lawful homicide refers to a death that results from an accident or sheer misfortune.

False Imprisonment: the suspect forcibly detains the victim against his or her will, but does not relocate the victim to another spot.

Felony: a serious crime punishable by more than one year imprisonment

Felony-Murder Rule: means that if a person dies during the course of a felony that is dangerous to life (usually robbery, burglary, sexual battery, arson, kidnapping), the suspect is responsible for that death. Such a death falls into the first-degree murder category

First-Degree Murder: a murder involving a malice aforethought, deliberation, and premeditation

Grand Theft: taking of property over a statutorily predetermined amount; in Florida theft over \$300 is grand; felony

Heat of Passion: a temporary loss of control involved in voluntary manslaughter, it involves 4 conditions (listed in the review question section)

Homicide: the killing of one human being by another, two classes: lawful and unlawful

Involuntary Manslaughter: Involuntary manslaughter is a catchall "Every unintentional killing of a human being is involuntary manslaughter if it is neither murder nor voluntary manslaughter nor within the sense of some recognized justification or excuse". Either negligence or recklessness can produce this type of homicide.

Justifiable Homicide: An example of a lawful homicide would be the category of justifiable homicide. A justifiable homicide involves the use of lethal force to prevent serious injury or death to another or to oneself.

Kidnapping: the unlawful restriction of a person's ability to move about freely and relocate to another place

Larceny: taking, using, or depriving a person of some property without that person's permission; does not involve the use of force or the threat of force against the victim- therefore, it is a property offense

Malice Aforethought: the intent to commit a felony or to cause death or serious harm (part of 1st degree murder)

Manslaughter: unlawful homicide, homicide is classified as manslaughter if it involves negligence or takes place "under the influence of extreme mental or emotional disturbance for which there is reasonable explanation or cause"

Marital Exemption: Common law does not recognize a husband as being capable of raping his own wife. The thinking here is that marriage represents a contractual arrangement between husband and wife. This matrimonial agreement means that the husband pledges to support and protect his wife. The wife, in turn, promises exclusive sexual access for the husband upon demand. A refusal by one party violates this contract. Steps to overcome this refusal are seen as a mere assertion of the husband's property rights.

Mens Rea: "the guilty mind" refers to the actual mental state of the suspect

Misdemeanor: a minor crime that carries a maximum confinement of up to one year

Murder: unlawful homicide, when a homicide is committed purposely or knowingly; or it is committed recklessly under circumstances manifesting extreme indifference to the value of human life.

Negligence: behavior that exposes others unnecessarily to the risk of death or serious bodily injury

Partial Exemption: in relation to marital exemption; other states have a partial exemption, if the two parties are in the process of a separation or a divorce, a prosecution might be feasible

Petty Theft: taking property valued at less than some statutorily predetermined amount; in Florida theft at less than \$300 is considered petty; misdemeanor

Premeditation: implies that the person planned to carry out the killing (part of 1st degree murder)

Probable Cause: Evidence that points to a certain person as being the one who perpetrated the offense

Probable Desistance Approach: a test used to determine if a crime is being attempted; this idea means that the crime would be a success except for some extraordinary intervention

Proximity Test: a test used to determine if there is an attempt to engage in a crime; this test means that a crime would have been successful if the suspect had completed this last essential step. The distinction here is the division of preparation from perpetration

Rape: males (who were not her husband) were offenders, females were victims; only forced sexual intercourse recognized; carnal knowledge it was an illegal act; omitted all other forms of coerced sexual contact; without consent; use or threat of force; offense was a capital crime punishable by death

Reaction of a Reasonable Person: Generally speaking, mere words or taunting do not establish a sufficient level of provocation. There must be some act of physical force, such as an assault, a battery or mutual combat. The standard here is the reaction of a reasonable person. A reasonable person does not normally try and kill somebody else.

Retail Theft: a person who attempts to take merchandise from a store without paying for the item has committed a retail theft

Robbery: the unlawful taking of money or property from a person through force, violence, or fear of harm

Sexual Battery: any oral, anal, vaginal penetration, or union by the sexual organ of another or with any object. This language recognizes males as victims and females as offenders, as well as vice versa. In addition, the sexual contact must be non-consensual. That is, the victim did not agree to the sexual liaison or was unable to form consent. The final requirement is the use of force or the threat of force to make the victim submit.

Shield Statute: a change introduced by the revised sexual battery laws; many states previously allowed any information about the victim's past sexual history to be revealed in court. A shield law prohibits the introduction of such information, except as it pertains just to the current victim and offender. Similarly, the victim's reputation is of no concern unless it pertains directly to the current case

Simple Assault: misdemeanor, absence of a weapon "I'm going to slap you with my hand"

Simple Battery: misdemeanor, does not involve a weapon, injury is minor

Sine Qua Non: But for the suspect's actions, the victim would still be alive today