

INTRODUCTION TO THE ILLINOIS STATE SUPPLEMENT

This work is an overview of some of the major offenses, defenses, and sentencing provisions covered under the Illinois criminal law. Although this is not a comprehensive book of the Illinois laws, the author has attempted to highlight the major themes addressed in Matthew Lippman's *Contemporary Criminal Law* (1st Edition).

The material in the text is formatted so that the student is able to develop a deeper understanding of Illinois law. The topics addressed in the text correspond with the chapters in *Contemporary Criminal Law*. This will enable the student to compare the laws in the text with the Illinois statutes. It is important to note, however, that in order for the student to obtain the full benefits of the supplement, he/she must read the text book first. The supplement does not provide the necessary details that the student must develop and understand before reading the statutes outlined in this supplement.

In the interest of clarity and conciseness, in many of the opinion excerpts, footnotes and citations are occasionally omitted. Unlike more formal works, the full history of a case will not always be included in the citation. However, students may find the full case at *LexisNexis.com*.

The material in this supplement is based on statutes written in the Illinois Criminal Code of 1961 (720 ILCS).

Some Tips for Students

Reading and comprehending statutes and opinions is often a difficult task. To facilitate your learning, this author recommends the following:

I. Many statutes (and other rules of law) are structured along the lines of a general rule followed by exceptions. Language such as “except as provided by subsection (b) below . . .” suggests that there is a general rule which exceptions to be found in (b) below. Try to break down a statute, or any rule of law, into the general rule and the exceptions.

II. Reference in opinions is frequently made to the “Appellant.” The Appellant is almost always the defendant who has been convicted and has now filed an appeal.

III. Many cases revolve around the explanations of the law given to the jury (jury instructions). Before they begin deliberating, juries will receive an explanation of the relevant law from the judge. In some cases the defendant argues that the jury should have been instructed on an issue (*e.g.*, insanity), or may argue that the trial court gave an erroneous explanation of the law (*e.g.*, omitted a *mens rea* element).

IV. Some terms in statutes are defined while others are not. Be sure to look for definitions. First, look in the section itself for definitions of the key terms. Then look at the beginning of the chapter for definitions.

V. When analyzing a statute, try to isolate the elements and other facets of each offense.

Elements of the offenses include:

1. the *mens rea* or culpability element (intentionally, knowingly, recklessly, with intent to . . ., etc.;

2. the *actus reus*, conduct or act element;
3. any surrounding or attendant circumstances elements, such as the victim being under a certain age;
4. any harm or result elements, such as serious bodily injury, death, etc.
5. any concurrence elements.

VI. Also be on the lookout for

1. any exceptions, defenses, or statements that this section does not apply to certain circumstances;
2. aggravating factors which raise the level of the offense beyond the usual level (e.g., having a prior conviction for this offense, high monetary value of the items stolen or destroyed).
3. who has the burden of proof on this issue (defendant or State)? What is that burden of proof?

VII. Remember that an offense could have more than one *mens rea* or *actus reus* element and/or there may be a number of ways this offense could be committed.

VIII. Remember that a person can be guilty of a crime even though they personally did not do the act. One can be guilty of murder even though he or she did not pull the trigger. In the opinions, be sure to ascertain whether the defendant actually did the criminal act or is guilty because they are an accomplice or co-conspirator.

IX. The drafting and approval of criminal statutes and court interpretation of statutes and constitutional provisions involves policy decisions. Although the answer is sometimes obvious (e.g., existence of criminal homicide statutes), readers should ask what is the purpose or goal of this provision, doctrine, etc. It is important to determine these purposes, for laws and legal doctrines should be interpreted and implemented consistently with their purpose. Once having determined the purpose, the reader should ask whether the provision or doctrine in issue is irrelevant to the purpose, furthers the purpose or interferes with the purpose.

X. Where possible, compare the Illinois approach with that of the Model Penal Code, the recommendations of scholars, and the laws of other states. Which approach is best?

XI. To fully understand the meaning of a statute, the case law interpreting the statute must always be consulted. Sometimes courts come up with interpretations that are unexpected.

XII. The law is constantly changing. Statutes can be repealed, amended or found unconstitutional. In any law book, always look for the most recent material in separately bound supplements or at the “pocket part” in the back of the volume. Court opinions can be withdrawn or overruled. There are research tools available to determine the current validity of an opinion.