

105TH CONGRESS
1ST SESSION

S. 171

To amend title 18, United States Code, to insert a general provision for criminal attempt.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. DEWINE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to insert a general provision for criminal attempt.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CRIMINAL ATTEMPT.**

4 (a) IN GENERAL.—Chapter 1 of title 18, United
5 States Code, is amended by inserting before section 2 the
6 following:

7 **“§ 1. Criminal attempt**

8 “(a) OFFENSE.—A person is guilty of an offense if,
9 acting with the state of mind otherwise required for the
10 commission of a crime, that person intentionally engages

1 in conduct that, if successful, would constitute or result
 2 in the offense.

3 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative
 4 defense to a prosecution under this section that, under cir-
 5 cumstances manifesting a voluntary and complete renunci-
 6 ation of criminal intent, the defendant avoided the com-
 7 mission of the crime attempted by abandoning any crimi-
 8 nal effort and, if mere abandonment was insufficient to
 9 accomplish such avoidance, by taking affirmative steps
 10 that prevented the commission of the crime.

11 “(c) DEFENSE PRECLUDED.—It is not a defense to
 12 a prosecution under this section—

13 “(1) that it was factually or legally impossible
 14 for the actor to commit the crime, if the crime could
 15 have been committed had the circumstances been as
 16 the actor believed them to be; or

17 “(2) that the crime attempted was completed.

18 “(d) PROOF.—In a prosecution under this section,
 19 any special proof provision that is specified in this title
 20 as applicable to the crime attempted is applicable also to
 21 an offense described in this section, unless a different ap-
 22 plication is plainly required.

23 “(e) GRADING.—An offense described in this section
 24 is an offense of the next lesser degree than the offense
 25 attempted.

1 “(f) JURISDICTION.—There is Federal jurisdiction
 2 over an offense described in this section if the crime at-
 3 tempted is a Federal crime with regard to which Federal
 4 jurisdiction—

5 “(1) is not limited to certain specified cir-
 6 cumstances; or

7 “(2) is limited to certain specified cir-
 8 cumstances and any such circumstance exists or has
 9 occurred, or would exist or occur if the course of
 10 conduct involving the crime were completed.”.

11 (b) TECHNICAL AMENDMENT.—The analysis for
 12 chapter 1 of title 18, United States Code, is amended by
 13 striking the item relating to section 1 and inserting the
 14 following:

“1. Criminal attempt.”.

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