

CAUSATION

COMMON LAW

A. General

1. Part of the Actus Reus of a crime whenever the definition of the offense requires that a result occur.
2. Analysis: Both conditions must be met.
 - a. The defendant's conduct must be the "cause in fact" of the result.
 - b. If so, it must also be the "proximate cause" or "legal cause" of the result.

B. Cause In Fact

Whether the result would have occurred "but for" the defendant's conduct.

C. Proximate Cause

If the defendant's conduct is the cause in fact of the prohibited result, the next question is whether it is the "proximate" or "legal" cause of the result.

1. Dependent and Independent Intervening Causes

(a) "Proximate Cause" questions are usually analyzed by asking whether any "intervening" cause should be characterized as "dependent" or "independent".

(b) "Intervening" cause means a contributing cause other than the defendant's conduct.

(c) Dependent Intervening Cause

A "dependent" intervening cause is an intervening cause that is sufficiently foreseeable or sufficiently related to the defendant's conduct so as to make it fair to hold the defendant responsible for the result.

(d) Independent Intervening Cause

An "independent" intervening cause is an intervening cause that is sufficiently independent of the defendant's conduct so as to make it unfair to hold the defendant responsible for the result. If there is an "independent" intervening cause, the defendant's conduct is not the proximate cause of the result.

2. The Determinative Inquiry

(a) What is the difference between what actually happened and what the defendant intended or foresaw?

(b) Does this difference make it unfair or unjust to hold the defendant responsible for the result?

1. If no - intervening cause is dependent - conduct is proximate cause.

2. If yes - intervening cause is independent - conduct is not the proximate cause.

MODEL PENAL CODE

A. General

1. Look to MPC § 2.03

2. Ask the same questions as at common law: Cause in Fact and Proximate Cause

B. Cause in Fact

1. Whether defendant's conduct as "an antecedent but for which the result in question would not have occurred." MPC § 2.03(1)(a)

2. Whether the result would have happened if the defendant had not acted.

C. Proximate Cause

1. If it is the cause in fact, then one must ask a second question

2. Common Law Proximate Cause Inquiry is replaced by a Code analysis

3. Comparison of Actual Result with Designed, Contemplated, or Risked Result

(a) Steps

(1) Describe the details of the result as it actually occurred.

(2) Describe the details of the defendant's mental attitude toward the result.

(3) Compare the two in light of the culpability required for the result element of the offense.

- a. If purpose, then the details of the actual result should be compared to the details of the result the defendant intended to occur.
- b. If knowledge, then the details of the actual result should be compared to the details of the result as the defendant thought it would occur.
- c. If recklessness, then the details of the actual result should be compared to the details of the result that the defendant thought were risked by the behavior.
- d. If negligence, then the details of the actual result should be compared to the details of the result which the defendant should have known were risked by the behavior.

(This thought process is necessary to determine whether to apply Subsection (2)(a) and (2)(b) for purpose and knowledge or Subsection (3)(a) or (3)(b) for recklessness and negligence.)

4. Different Person, Difference Property, Lesser Harm

If these differences are present, then the defendant's conduct is regarded as the cause of the result.

5. Similar Injury or Harm

MPC § 2.03(2)(b) and (3)(b)

Whether the actual result is "too remote or accidental in its occurrence to have a just bearing on the actor's liability or on the gravity of his offense".