



October 5, 2017

Support the Mens Rea Reform Act, S. 1902

On behalf of our activist community, I urge you to contact your senators and ask them to support the Mens Rea Reform Act, S. 1902, introduced by Sens. Orrin Hatch (R-Utah), Mike Lee (R-Utah), Ted Cruz (R-Texas), David Perdue (R-Ga.), and Rand Paul (R-Ky.). The bill would address over-criminalization at the federal level, setting a default intent standard for all federal criminal laws and regulations currently lacking *mens rea* protections. The proposed default intent standard would require the government to prove beyond a reasonable doubt that the defendant acted willfully in order to obtain a conviction.

Having *mens rea* protections — requiring that a person knows his or her action was wrong — is an essential element in maintaining a free society. Only when a person acts with a guilty mind can he or she rightfully be called a criminal, and our justice system should reflect that principle.

There are estimated to be between 4,500 and 5,000 federal statutes carrying criminal penalties, and over 400,000 federal regulations that may be enforced criminally. With this many criminally-enforceable federal laws, what Professor John Baker once said is undoubtedly true: “There is no one in the United States over the age of 18 who cannot be indicted for some federal crime.” While some of these laws do have existing *mens rea* protections, many do not. Even one without is one too many.

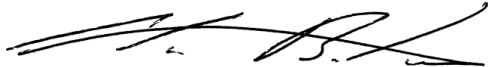
The Congressional Research Service’s response in 2013 when asked to account for the true number of these statutes and regulations was that it “lack[ed] the manpower and resources to accomplish this task.” If the CRS cannot even number every criminally-enforceable federal law, Americans certainly cannot be expected to know the details of each one. Sentencing someone as a criminal who acted without any semblance of a guilty mind in accidentally violating a federal law — for example, having a pet on a leash longer than six feet in a federal park — is not only unfair, but contributes to wasteful government spending on people who are not criminals.

The Mens Rea Reform Act offers a simple, common-sense solution, covering for those criminally-enforceable federal laws passed without *mens rea* protections. The bill would require the government to meet a default intent standard of proof beyond a reasonable doubt that the

defendant acted willfully in order to obtain a conviction for offenses that do not already contain *mens rea* protections. It would not affect criminal statutes that have a strict liability standard. This effectively and necessarily defends the liberty of honest, innocent-minded Americans.

For these reasons, I urge you to contact your senators and ask them to support the Mens Rea Reform Act, S. 1902.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized, flowing script.

Adam Brandon
President, FreedomWorks