

CHAPTER 12.1-03

ACCOMPLICES - CORPORATIONS - AGENTS

12.1-03-01. Accomplices.

1. A person may be convicted of an offense based upon the conduct of another person when:
 - a. Acting with the kind of culpability required for the offense, he causes the other to engage in such conduct;
 - b. With intent that an offense be committed, he commands, induces, procures, or aids the other to commit it, or, having a statutory duty to prevent its commission, he fails to make proper effort to do so; or
 - c. He is a coconspirator and his association with the offense meets the requirements of either of the other subdivisions of this subsection.

A person is not liable under this subsection for the conduct of another person when he is either expressly or by implication made not accountable for such conduct by the statute defining the offense or related provisions because he is a victim of the offense or otherwise.

2. Unless otherwise provided, in a prosecution in which the liability of the defendant is based upon the conduct of another person, it is no defense that:
 - a. The defendant does not belong to the class of persons who, because of their official status or other capacity or characteristic, are by definition of the offense the only persons capable of directly committing it; or
 - b. The person for whose conduct the defendant is being held liable has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is immune from prosecution, or is otherwise not subject to justice.

12.1-03-02. Corporate and limited liability company criminal responsibility.

1. A corporation or a limited liability company may be convicted of:
 - a. Any offense committed by an agent of the corporation or limited liability company within the scope of the agent's employment on the basis of conduct authorized, requested, or commanded, by any of the following or a combination of them:
 - (1) The board of directors or the board of governors.
 - (2) An executive officer, executive manager, or any other agent in a position of comparable authority with respect to the formulation of policy or the supervision in a managerial capacity of subordinate employees.
 - (3) Any person, whether or not an officer of the corporation, who controls the corporation or is responsibly involved in forming its policy.
 - (4) Any person, whether or not a manager of the limited liability company, who controls the limited liability company or is responsibly involved in forming its policy.

- (5) Any other person for whose act or omission the statute defining the offense provides corporate or limited liability company responsibility for offenses.
 - b. Any offense consisting of an omission to discharge a specific duty of affirmative conduct imposed on a corporation or a limited liability company by law.
 - c. Any misdemeanor committed by an agent of the corporation or the limited liability company within the scope of the agent's employment.
 - d. Any offense for which an individual may be convicted without proof of culpability, committed by an agent of the corporation or the limited liability company within the scope of the agent's employment.
2. It is no defense that an individual upon whose conduct liability of the corporation or the limited liability company for an offense is based has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is immune from prosecution, or is otherwise not subject to justice.

12.1-03-03. Individual accountability for conduct on behalf of organizations.

1. A person is legally accountable for any conduct he performs or causes to be performed in the name of an organization or in its behalf to the same extent as if the conduct were performed in his own name or his behalf.
2. Except as otherwise expressly provided, whenever a duty to act is imposed upon an organization by a statute or regulation thereunder, any agent of the organization having primary responsibility for the subject matter of the duty is legally accountable for an omission to perform the required act to the same extent as if the duty were imposed directly upon himself.
3. When an individual is convicted of an offense as an accomplice of an organization, he is subject to the sentence authorized when a natural person is convicted of that offense.

12.1-03-04. Definitions and general provisions.

1. In this chapter:
 - a. "Agent" means any partner, director, officer, governor, manager, servant, employee, or other person authorized to act in behalf of an organization.
 - b. "Organization" means any legal entity, whether or not organized as a corporation, limited liability company, or unincorporated association, but does not include an entity organized as or by a governmental agency for the execution of a governmental program.
2. Nothing in this chapter shall limit or extend the criminal liability of an unincorporated association.