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Specialty / field of study (code and full name): 40.03.01-Law

Level of study: bachelor's degree.

Institute or Higher school: Law University.

Department of criminal law disciplines and forensic expertise

Subject matter: Liability for unintentional infliction of serious harm to health under the criminal legislation of the Russian Federation

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Relevance of the research topic. The criminal policy of the Russian state at the present stage is aimed at prioritizing the protection of human life and health, their rights, freedoms and legitimate interests. This is evidenced by the main tasks of criminal law protection, stipulated in article 2 of the criminal code of the Russian Federation, as well as the fact that crimes against the person are in the first place among the chapters of the Special part of the Criminal code.

Human health is a direct object of criminal attacks, responsibility for which is established by articles 111-125 of the criminal code of the Russian Federation. Article 118 of the criminal code establishes criminal liability for causing serious harm to health by negligence.

The constant development of scientific and technological progress is one of the objective determinants of the growth of reckless crime. However, official statistics do not fully reflect the real picture. Due to the high level of latency of careless acts, which is largely due to: on the one hand, their classification as non-criminal (administrative, civil torts), and on the other - their qualification as intentional crimes.

Inaccurate qualification of careless infliction of serious harm to health leads to unjustified sentencing, and can form stable anti-social attitudes in the convicted person.

At the same time, technological progress leads to the development of new special areas of human activity, in many of which situations of increased risk are possible. The task of the legislator is to find a reasonable balance between reliable protection of the individual and society from the onset of serious consequences in this sphere of activity and the elimination of unjustified obstacles to the development of scientific and technological progress.

All this indicates the need to develop clearer criteria for criminalizing acts that violate certain special rules, and to distinguish between special and general crimes of causing serious harm to health by negligence.

Object of research: Object of research is a set of legal norms and social relations arising in connection with the Commission of crimes envisaged by article 118 of the criminal code, and it became the subject of criminal-legal norms providing for the above offences, the practice of their implementation.

Purpose and objectives of the study. The purpose of the work is to develop optimal criminal law regulation of liability for causing serious injury to health by negligence, to distinguish this crime from similar related and special compositions, and to further improve law enforcement practice.

To achieve this goal the following tasks were performed:

- analysis of criminal liability for negligent infliction of serious harm to health in order to identify the Genesis of problems in lawmaking and law enforcement of the current article 118 of the criminal code of the Russian Federation;
- research of the criminal legislation of a number of foreign countries in terms of legal regulation of the fight against causing serious harm to health by negligence;
- analysis of objective and subjective features of the crime under consideration under article 118 of the criminal code of the Russian Federation;
- study of statistical data on crimes under article 118 of the criminal code of the Russian Federation.

Conclusions:

1. The Peculiarity of causation in the careless infliction of serious harm to health is predetermined by the multiplicity of causes that cause it, so among all the theories of causation, this mechanism of criminal behavior most adequately reflects the theory of the necessary condition. When establishing a causal relationship as an element of the objective side of the crime in question, the rules (conditions) for determining it are of particular importance, since they allow us to identify and determine the cause (s) of the consequences that have occurred. A necessary and sufficient condition for the existence of a causal relationship between the act of the perpetrator and the resulting serious injury to health due to negligence will be the use of two criteria: temporary and relatability.

2. When differentiating a crime under article 118 of the criminal code with related crimes (articles 111 - 125 of the criminal code), it is necessary to take into account their subjective side. However, given the practical difficulties of delimitation of causing grievous bodily harm by carelessness from doing it with indirect intent in each crime under article 118 of the criminal code, it is necessary to set the mental attitude of the perpetrator not only to consequences but also to act. It allows us to determine more specifically the nature of the foresight of causing serious harm to health. Moreover, in the case of deliberate Commission of a wrongful act, such a type of carelessness as negligence is excluded, since in this case the person is aware of the real or potential possibility of serious consequences.