# IPC Section 328: Causing hurt by means of poison, etc., with intent to commit an offence.

## IPC Section 328: Causing Hurt by Means of Poison, etc., with Intent to Commit an Offence  
  
Section 328 of the Indian Penal Code (IPC) addresses the crime of intentionally causing hurt through the administration of poison or other intoxicating substances with the specific intent of facilitating the commission of another offence. This section recognizes the heightened culpability of individuals who utilize such methods to incapacitate or subdue their victims before committing a further criminal act. It distinguishes itself from other sections dealing with hurt by emphasizing the malicious intent behind the infliction of harm and its connection to a subsequent offence.  
  
\*\*The Text of Section 328:\*\*  
  
"Whoever administers to or causes to be taken by any person any poison, or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."  
  
  
\*\*Breaking Down the Elements of Section 328:\*\*  
  
1. \*\*Administration or causing to be taken:\*\* This element establishes the actus reus, or the guilty act. The offender must either directly administer the harmful substance or indirectly cause its consumption by the victim. This includes actions such as forcing, deceiving, or inducing the victim to consume the substance. Mere possession of the substance is not sufficient; there must be an active role in its consumption by the victim.  
  
  
2. \*\*Harmful Substance:\*\* The section specifies several types of substances that qualify under this provision:  
  
 \* \*\*Poison:\*\* Any substance that can cause illness or death when introduced into the body.  
 \* \*\*Stupefying Drug:\*\* A substance that dulls the senses and induces a state of stupor or unconsciousness.  
 \* \*\*Intoxicating Drug:\*\* A substance that causes a temporary alteration in mental and physical function.  
 \* \*\*Unwholesome Drug or Other Thing:\*\* This broad category encompasses any substance or object that is detrimental to health or well-being, even if not strictly a poison, drug, or intoxicant. This inclusive language ensures that the law can adapt to new and emerging harmful substances.  
  
3. \*\*Intent to Cause Hurt:\*\* The first of the two specified mens rea (guilty mind) elements. The perpetrator must have the intention to cause hurt, as defined under Section 319 of the IPC. Hurt encompasses bodily pain, disease, infirmity, or impairment of any organ. This intent doesn't require the intention to cause grievous hurt, just any level of hurt as defined in the IPC.  
  
  
4. \*\*Intent to Facilitate the Commission of an Offence:\*\* The second and crucial mens rea element. This section specifically targets those who administer harmful substances to weaken or incapacitate their victims, making it easier to commit another offence. This "other offence" can be any offence under the IPC or any other law. The intended offence need not be successfully completed; the mere intent to commit it, coupled with the administration of the harmful substance, is sufficient to attract the provisions of Section 328. The prosecution must demonstrate a clear link between the administration of the substance and the intended subsequent offence. The nature of the intended offence can influence the severity of the punishment, though not directly under Section 328 itself. A more serious intended offence can lead to a more severe punishment for the subsequent offence, potentially impacting sentencing considerations.  
  
\*\*Examples of Offences Facilitated by Section 328:\*\*  
  
\* \*\*Robbery:\*\* Drugging a victim to steal their belongings.  
\* \*\*Rape:\*\* Using intoxicants to incapacitate a victim before sexual assault.  
\* \*\*Kidnapping:\*\* Administering a stupefying drug to abduct a person.  
\* \*\*Murder:\*\* Poisoning a victim to weaken them before killing them.  
\* \*\*Theft:\*\* Drugging a homeowner to steal from their house.  
  
  
\*\*Punishment:\*\*  
  
Section 328 prescribes a punishment of imprisonment for up to ten years, along with a possible fine. The term "imprisonment of either description" means that the sentence can be either rigorous imprisonment (with hard labor) or simple imprisonment, depending on the severity of the case and the discretion of the court. The factors influencing the severity of the punishment can include the nature of the harmful substance used, the degree of hurt caused, and the nature of the intended offence.  
  
  
\*\*Relationship with Other Sections:\*\*  
  
Section 328 is related to, but distinct from, other sections dealing with hurt and poisoning. For instance:  
  
\* \*\*Section 324 (Voluntarily causing hurt by dangerous weapons or means):\*\* While both sections deal with causing hurt, Section 328 specifically addresses the use of poison and other intoxicating substances with the intent to commit a further offence. Section 324 covers a broader range of methods for causing hurt but lacks the specific intent element linked to another offence.  
\* \*\*Section 326 (Voluntarily causing grievous hurt by dangerous weapons or means):\*\* This section addresses causing grievous hurt, a more severe form of injury than simple hurt. If the administration of a harmful substance results in grievous hurt, and there was an intent to commit another offence, both sections 328 and 326 may be applicable.  
\* \*\*Sections 300-304 (Culpable Homicide and Murder):\*\* If the administration of the substance leads to the victim's death, the offender may be charged with culpable homicide or murder, depending on the circumstances and the intent.  
  
\*\*Burden of Proof:\*\*  
  
The burden of proving all the elements of Section 328 beyond reasonable doubt lies with the prosecution. They must establish the administration or causing to be taken of the harmful substance, the intent to cause hurt, and the intent to facilitate another offence.  
  
  
\*\*Conclusion:\*\*  
  
Section 328 serves as a crucial provision in the IPC, addressing the specific danger posed by individuals who utilize harmful substances to facilitate further criminal acts. By focusing on the intent behind the administration of such substances, it ensures that those who employ such tactics to commit other crimes are held accountable for their actions. The broad language used in defining the harmful substances ensures its continued relevance in addressing the ever-evolving nature of intoxicants and poisons. The linked intention to commit a further offence differentiates this section from other sections dealing with causing hurt and underscores the gravity of the offence.