

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: Uvod v ameriško kazensko pravo
Course title: Introduction to American Criminal Law

| Študijski program in stopnja Study programme and level | Študijska smer Study field | Letnik Academic year | Semester Semester |
|---|-------------------------------|-------------------------|----------------------|
| Prvostopenjski univerzitetni študijski program Pravo | Pravo | 2023/24 | letni |
| First-cycle University Study Programme in Law | Law | 2023/24 | summer |

Vrsta predmeta / Course type

Izbirni (posebni program študijskih izmenjav)
Elective (Special elective course for Erasmus students)

Univerzitetna koda predmeta / University course code: /

| Predavanja Lectures | Seminar Seminar | Vaje Tutorial | Klinične vaje work | Druge oblike študija | Samost. delo Individ. work | ECTS |
|------------------------|--------------------|------------------|-----------------------|----------------------|----------------------------------|------|
| 20 | 30 | | | 70 | 60 | 6 |

Nosilec predmeta / Lecturer: Steven Oberman

Jeziki / Languages:
Predavanja / Lectures: Angleščina
English
Vaje / Tutorial:

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:

Študent na študijski izmenjavi na Univerzi v Ljubljani.

Prerequisites:

Exchange student of the University of Ljubljana.

Vsebina:

1. Uvod v ameriško kazensko pravo
2. *Actus Reus, Mens Rea* in krivda
3. Namerni umori, hudi umori in umori iz "vročine strasti".
4. Posilstvo in spolni napad
5. Kraja in poneverba
6. Ustavna zaščita, zagotovljena državljanom ZDA, obtoženim vožnje pod vplivom opojnih substanc
7. Kazniva dejanja, povezana z drogami
8. Obrambe: samoobramba, nujnost in norost
9. Pravice obdolženca, dokaz o krivdi in razveljavitev porote
10. Teorije kaznovanja in odmerjanja kazni

Content (Syllabus outline):

1. Introduction to U.S. Criminal Law
2. Actus Reus, Mens Rea, & Culpability
3. Intentional Killings, Felony Murder, & "Heat of Passion" Killings
4. Rape & Sexual Assault
5. Theft & Embezzlement
6. Constitutional protections afforded to U.S. citizens charged with Driving Under the Influence of an Intoxicant
7. Drug Offenses
8. Defenses: Self Defense, Necessity, & Insanity
9. Rights of the Defendant, Proof of Guilt & Jury Nullification
10. Theories of Punishment and Sentencing

Temeljni literatura in viri / Readings:

Gradiva za delo na predavanjih bodo posredovana med izvajanjem predmeta. Gradivo za branje vključuje izbrane dele kazenskega zakonika ZDA in/ali statute Združenih držav ter izbrano sodno prakso. Vsa gradiva bodo študentom brezplačno na voljo v angleškem jeziku.

Specific materials on the topics covered will be provided during the course.

The reading materials include selected portions of the U. S. Model Penal Code and/or United States statutes as well as selected case law. All materials will be made available in English to the students at no cost to them.

Cilji in kompetence:

Študenti bodo pri predmetu pridobili splošne pravne kompetence analiziranja in sintetiziranja primerov, branja in analize zakonov, kritičnega razmišljanja o pravnih in političnih vprašanjih, učenja skozi refleksijo in samokritiko, posvečanja pozornosti podrobnostim in izvajanju praktične presoje.

Študentje bodo raziskovali načela in namene ameriškega kazenskega prava, obseg in elemente izbranih kaznivih dejanj, tako filozofije tožilstva kot obrambe ter različne teorije in alternative kaznovanja. Potekala bo tudi razprava o pozitivnih obrambah, ki so na voljo kazensko ovadenim.

Objectives and competences:

The course will build students' general legal competence in analyzing and synthesizing cases, reading and analyzing statutes, thinking critically about legal and policy issues, learning through reflection and self-critique, paying attention to detail, and exercising practical judgment.

Throughout the course, students will explore the principles and purposes of American Criminal law, the scope and elements of select crimes, both prosecution and defense philosophies, and various punishment theories and alternatives. There will also be a discussion of affirmative defenses available to those facing criminal charges.

Predvideni študijski rezultati:

Po uspešnem zaključku obiskovanja predmeta bodo študenti pridobili osnovno znanje o:

1. Načelih in namenih ameriškega kazenskega prava;
2. Elementih in zahtevah za izbrana kazniva dejanja, vključno z *Actus Reus* in *Mens Rea*;
3. Domnevi nedolžnosti in drugih izbranih ustavnih pravicah obtožencev kaznivih dejanj v Združenih državah;
4. Teorijah in perspektivah tožilstva in obrambe;
5. Analizi zakonskega jezika iz standardov vzorčnega kazenskega zakonika ali državnega zakona in uporabi dejstev iz resničnega sveta ali hipotetičnih situacij; in
1. 6. Kako se lahko različne teorije o kaznovanju uporabijo za različne scenarije dejstev.

Intended learning outcomes:

Upon successful completion of the American Criminal Law course, students will have acquired a basic knowledge of:

1. The principles and purposes of American criminal law;
2. The elements and requirements for selected offenses, including *actus reus* (guilty act) and *mens rea* (guilty mind);
3. The presumption of innocence and other select constitutional rights of criminal defendants in the United States;
4. Prosecution and defense theories and perspectives;
5. Statutory language analysis from the Model Penal Code standards or a state statute and application to real world facts or hypothetical situations; and
6. How various theories of punishment may be applied to different fact scenarios.

Metode poučevanja in učenja:

Ta predmet je hibrid predavanja in razprave, ki bo študente seznanil s temeljnimi pojmi in doktrinami materialnega kazenskega prava ZDA, osnovami o tem, kako zakone sprejemajo ameriški zakonodajalci, ter zakonsko analizo in razlago. Poleg tega bo predmet izboljšal študentovo razumevanje strukture ameriškega pravnega sistema, hierarhije sodišč in medsebojnega delovanja različnih vrst pravnih organov (npr. ustave, statuti, sodna praksa, predpisi in druge upravne smernice).

Vsako predavanje bo sestavljeno iz pregleda prejšnje bralne naloge, da se zagotovi, da študentje razumejo relevantno gradivo, ki se bo osredotočalo na določen zločin ali temo. Takoj po pregledu bodo sledile razprave o dodeljenih gradivih s študenti. Ameriško

Learning and teaching methods:

This course is a lecture and discussion hybrid that will familiarize the students with the fundamental concepts and doctrines of substantive U.S. criminal law, the basic premises of how laws are passed by American legislatures, and statutory analysis and interpretation. In addition, the course will further the students' understanding of the structure of the American legal system, the hierarchy of courts, and the interaction of different types of legal authorities (*e.g.*, constitutions, statutes, case law, regulations, and other administrative guidance).

Each of the weekly classes will consist of a review of the previous reading assignment to ensure that students have an understanding of the relevant materials, which will focus on a

kazensko zakonodajo lahko primerjamo s slovensko in drugimi evropskimi državami, vključno z raziskovanjem razlik v kulturnih namenih in potrebah. Da bi ohranili dinamično vpletenost, izboljšali njihovo razumevanje vprašanj in naučili spoštovanja do nasprotnega mnenja, bodo študenti v nekaj tednih razdeljeni v dve skupini, ki bodo med poukom razpravljali o nasprotnih straneh pravnega vprašanja.

particular crime or topic. Immediately following the review, there will be discussions of the assigned materials with the students. We may compare American criminal laws with those of Slovenia and other European countries, including an exploration of the differences in cultural purposes and needs. In order to maintain dynamic involvement, enhance their understanding of the issues, and teach respect for an opposing opinion, during some weeks students will be divided into two groups to argue opposite sides of a legal issue during class.

| | | Delež (v %) / Weight (in %) | Assessment: |
|--|------------|--|-------------|
| Načini ocenjevanja: | | | |
| • Prisotnost na predavanjih | 20% | • Class attendance | |
| • Aktivno sodelovanje na predavanjih (vključno s kratkimi predstavitvami na podlagi nalog) | 40% | • Active in-class participation (including short presentations based on assignments) | |
| • Pisni izpit | 40% | • Written exam | |

Reference nosilca / Lecturer's references:

Steven Oberman se že 44 let ukvarja s pravom civilne (telesne poškodbe) in kazenske obrambe (National College for DUI Defense ga je certificiral kot specialista za obrambno pravo vožnje pod vplivom). Je avtor državne razprave na temo zakonov na temo vožnje pod vplivom v Tennesseeju (od leta 1991), ki jo je izdal Thomson Reuters. Je tudi soavtor nacionalne razprave, ki jo je objavil Wolters Kluwer (zdaj v 9. izdaji), ki jo je vrhovno sodišče ZDA večkrat citiralo. Poleg tega je imel veliko objavljenih člankov v vodilnih pravnih in znanstvenih revijah.

Kot izredni profesor je 30 let poučeval zagovorništvo pred sodišči na Univerzi v Tennesseeju in za svoje prispevke prejel več prestižnih nagrad. Poleg tega je kot gostujoči predavatelj poučeval tehnike sojenja na več pravnih fakultetah v ZDA. Več kot 200-krat je predaval na pravnih konferencah v 30 državah in šestih tujih državah.

Od februarja do junija 2023 je poučeval ameriško kazensko pravo in ameriško sodno zagovorništvo kot gostujoči izredni profesor na Pravni fakulteti Univerze Eötvös Loránd v Budimpešti na Madžarskem. Ista predmeta je predaval tudi kot gostujoči izredni profesor Fulbrightove štipendije na Pravna fakulteta Univerze v Latviji od februarja do junija 2019.

Za svoje poučevanje študentov prava, odvetnikov, tožilcev, sodnikov in organov kazenskega pregona je prejel veliko priznanj.

Steven Oberman has been practicing civil (personal injury) and criminal defense (Board Certified as a Specialist in DUI Defense Law by the National College for DUI Defense) law for 44 years. He is the author of a state treatise on the topic of DUI laws in Tennessee (since 1991) published by Thomson Reuters. He is also co-author of a national treatise published by Wolters Kluwer (now in its 9th edition) that has been cited by the U.S. Supreme Court on multiple occasions. Additionally he has had many articles published in leading legal and scientific journals.

He has taught Trial Advocacy at The University of Tennessee as an adjunct professor for 30 years and received several prestigious awards for his contributions. Additionally, he has taught trial techniques at

several law schools in the United States as a guest lecturer. He has lectured at legal conferences over 200 times in 30 states and six foreign countries.

He has taught American Criminal Law and American Trial Advocacy as a visiting adjunct professor at Eötvös Loránd University Faculty of Law, in Budapest, Hungary from February – June 2023. He has also taught the same two courses as a Fulbright Scholar visiting adjunct professor at the University of Latvia Faculty of Law from February – June 2019.

He has received many accolades for his teaching of law students, defense lawyers, prosecutors, judges and law enforcement agencies.