

TITLE 7. PUBLIC PEACE, MORALS, AND WELFARE

Chapter 7.4

HOMICIDE

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7.4.1. Homicide Defined. Homicide is the killing of a human being by the act, procurement, or omission of another and is either:

- (a) Murder;
- (b) Manslaughter;
- (c) Excusable homicide; or

(d) Justifiable homicide. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered by Res. 2008-022, passed Mar. 24, 2008)

7.4.2. Murder in the First Degree. (a) A person is guilty of murder in the first degree when:

(1) With a premeditated intent to cause the death of another person, he or she causes the death of such person or of a third person;

(2) Under circumstances manifesting an extreme indifference to human life, he or she engages in conduct which creates a grave risk of death to any person and thereby causes the death of a person; or

(3) He or she commits or attempts to commit the crime of robbery in the first or second degree, rape in the first or second degree, burglary in the first degree, arson in the first degree, or kidnapping in the first or second degree, and in the course of and in furtherance of such crime or in immediate flight therefrom, he or she or another participant causes the death of a person other than one of the participants. Except that in any prosecution under §7.4.2(a)(3) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

(A) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and

(B) Was not armed with a deadly weapon or any instrument, article, or substance readily capable of causing death; or

(C) Had no reasonable grounds to believe that any other participant:

(i) Was armed with such a weapon, instrument, article, or substance; and

(ii) Intended to engage in conduct likely to result in death or physical injury.

(b) Murder in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered by Res. 2008-022, passed Mar. 24, 2008)

7.4.3. Murder in the Second Degree. (a) A person is guilty of murder in the second degree when:

(1) With intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person; or

(2) He or she commits or attempts to commit any felony other than those enumerated in §7.4.2(a)(3), and in the course of and in furtherance of such crime or in immediate flight therefrom, he or she or another participant causes the death of a person other than one of the participants. Except that in any prosecution under §7.4.3(a)(2) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

(A) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof;

(B) Was not armed with a deadly weapon or any instrument, article, or substance readily capable of causing death or serious physical injury; and

(C) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(b) Murder in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered by Res. 2008-022, passed Mar. 24, 2008)

7.4.4. Manslaughter in the First Degree. (a) A person is guilty of manslaughter in the first degree when:

(1) He or she recklessly causes the death of another person; or

(2) He or she intentionally and unlawfully kills an unborn quick child by inflicting any injury upon the mother of such child.

(b) Manslaughter in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered by Res. 2008-022, passed Mar. 24, 2008)

7.4.5. Manslaughter in the Second Degree. (a) A person is guilty of manslaughter in the second degree when with criminal negligence he or she causes the death of another person.

(b) Manslaughter in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered by Res. 2008-022, passed Mar. 24, 2008)

7.4.6. Homicide by Abuse. (a) A person is guilty of homicide by abuse if, under circumstances manifesting an extreme indifference to human life, the person causes the death of a child, a developmentally disabled person, or a dependent adult, and the person has previously engaged in a pattern or practice of assault or torture of said child, developmentally disabled person, or dependent adult. "Dependent adult" means a person who because of physical or mental disability or because of advanced age is dependent upon another person to provide the basic necessities of life.

(b) Homicide by abuse is a felony. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered by Res. 2008-022, passed Mar. 24, 2008)

Note: Negligent Homicide (prior §7.4.6; Res. 93-025 (part), passed Mar. 8, 1993) was deleted by Res. 2008-022, passed Mar. 24, 2008, and is now at §7.25.8 Vehicular Homicide.