

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1953

By: Cruz

4
5 AS INTRODUCED

6 An Act relating to murder; amending 21 O.S. 2011,
7 Sections 701.7, as last amended by Section 1, Chapter
8 208, O.S.L. 2012 and 701.8 (21 O.S. Supp. 2020,
9 Section 701.7), which relates to first and second
10 degree murder; modifying elements of first degree
11 murder; providing statutory reference for certain
12 definition; assigning liability for first degree
13 murder under certain circumstances; modifying
14 elements of second degree murder; and providing an
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 21 O.S. 2011, Section 701.7, as
18 last amended by Section 1, Chapter 208, O.S.L. 2012 (21 O.S. Supp.
19 2020, Section 701.7), is amended to read as follows:

20 Section 701.7 A. A person commits murder in the first degree
21 when that person unlawfully and with malice aforethought causes the
22 death of another human being. Malice is that deliberate intention
23 unlawfully to take away the life of a human being, which is
24 manifested by external circumstances capable of proof. Malice shall
not be imputed to a person based solely on his or her participation
in a crime.

1 B. 1. A person also commits the crime of murder in the first
2 degree, ~~regardless of malice,~~ when that person ~~or any other person~~
3 takes the life of a human being during, or if the death of a human
4 being results from, the commission or attempted commission of murder
5 of another person, shooting or discharge of a firearm or crossbow
6 with intent to kill, intentional discharge of a firearm or other
7 deadly weapon into any dwelling or building as provided in Section
8 1289.17A of this title, forcible rape, robbery with a dangerous
9 weapon, kidnapping, escape from lawful custody, eluding an officer,
10 first degree burglary, first degree arson, unlawful distributing or
11 dispensing of controlled dangerous substances or synthetic
12 controlled substances, trafficking in illegal drugs, or
13 manufacturing or attempting to manufacture a controlled dangerous
14 substance.

15 ~~1. Except as provided in paragraph 3 of this subsection, As~~
16 ~~used in this paragraph, the term "synthetic controlled substance"~~
17 ~~means a substance:~~

- 18 a. ~~the chemical structure of which is substantially~~
19 ~~similar to the chemical structure of a controlled~~
20 ~~substance in Schedule I or II,~~
- 21 b. ~~which has a stimulant, depressant, or hallucinogenic~~
22 ~~effect on the central nervous system that is~~
23 ~~substantially similar to or greater than the~~
24 ~~stimulant, depressant, or hallucinogenic effect on the~~

1 ~~central nervous system of a controlled substance in~~
2 ~~Schedule I or II, or~~

- 3 e. ~~with respect to a particular person, which such person~~
4 ~~represents or intends to have a stimulant, depressant,~~
5 ~~or hallucinogenic effect on the central nervous system~~
6 ~~that is substantially similar to or greater than the~~
7 ~~stimulant, depressant, or hallucinogenic effect on the~~
8 ~~central nervous system of a controlled substance in~~
9 ~~Schedule I or II.~~

10 2. ~~The designation of gamma butyrolactone does not preclude a~~
11 ~~finding pursuant to paragraph 1 of this subsection that the chemical~~
12 ~~is a synthetic controlled substance.~~

13 3. ~~Such term does not include:~~

- 14 a. ~~a controlled substance,~~
15 b. ~~any substance for which there is an approved new drug~~
16 ~~application,~~
17 c. ~~with respect to a particular person any substance, if~~
18 ~~an exemption is in effect for investigational use, for~~
19 ~~that person, under Section 505 of the Federal Food,~~
20 ~~Drug, and Cosmetic Act (21 U.S.C. 355) to the extent~~
21 ~~conduct with respect to such substance is pursuant to~~
22 ~~such exemption, or~~

1 d. ~~any substance to the extent not intended for human~~
2 ~~consumption before such an exemption takes effect with~~
3 ~~respect to that substance~~

4 shall have the same meaning as such term is defined in Section 2-101
5 of Title 63 of the Oklahoma Statutes.

6 2. A participant in the commission or attempted commission of a
7 felony listed in paragraph 1 of this subsection in which the death
8 of another human being occurs is liable for murder only if one of
9 the following is proven:

10 a. the person was the actual murderer,

11 b. the person was not the actual murderer but, with the
12 intent to kill, aided, abetted, counseled, commanded,
13 induced, solicited, requested, or assisted the actual
14 murderer in the commission of murder in the first
15 degree, or

16 c. the person was a major participant in the underlying
17 felony and acted with reckless indifference to human
18 life.

19 C. A person commits murder in the first degree when the death
20 of a child results from the willful or malicious injuring,
21 torturing, maiming or using of unreasonable force by said person or
22 who shall willfully cause, procure or permit any of said acts to be
23 done upon the child pursuant to Section 843.5 of this title. It is
24 sufficient for the crime of murder in the first degree that the

1 person either willfully tortured or used unreasonable force upon the
2 child or maliciously injured or maimed the child.

3 D. A person commits murder in the first degree when that person
4 unlawfully and with malice aforethought solicits another person or
5 persons to cause the death of a human being in furtherance of
6 unlawfully manufacturing, distributing or dispensing controlled
7 dangerous substances, as defined in the Uniform Controlled Dangerous
8 Substances Act, unlawfully possessing with intent to distribute or
9 dispense controlled dangerous substances, or trafficking in illegal
10 drugs.

11 E. A person commits murder in the first degree when that person
12 intentionally causes the death of a law enforcement officer,
13 correctional officer, or corrections employee while the officer or
14 employee is in the performance of official duties.

15 SECTION 2. AMENDATORY 21 O.S. 2011, Section 701.8, is
16 amended to read as follows:

17 Section 701.8 Homicide is murder in the second degree in the
18 following cases:

19 1. When perpetrated by an act imminently dangerous to another
20 person and evincing a depraved mind, regardless of human life,
21 although without any premeditated design to effect the death of any
22 particular individual; or

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24

1 2. When perpetrated by a person engaged in the commission of
2 any felony ~~other than the unlawful acts set out in Section 1,~~
3 ~~subsection B, of this act.~~

4 SECTION 3. This act shall become effective November 1, 2021.

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6 58-1-6700 GRS 01/12/21

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