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HOUSE BILL 1009

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JERRY LEE ALWIN

AN ACT

RELATING TO CRIMINAL OFFENSES; CHANGING THE INTENT REQUIREMENT  
FOR MURDER; AMENDING THE ELEMENTS OF MANSLAUGHTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-2-1 NMSA 1978 (being Laws 1963,  
Chapter 303, Section 2-1, as amended) is amended to read:

"30-2-1. MURDER. --

A. Murder in the first degree is the killing of one  
human being by another without lawful justification or excuse,  
by any of the means with which death may be caused:

(1) by any kind of willful, deliberate and  
premeditated killing, an offense termed deliberate intent  
murder. The mental state required for deliberate intent murder  
is the specific intent to kill;

(2) in the commission of or attempt to commit

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1 ~~[any felony]~~ a first degree or other dangerous felony, an  
2 offense termed felony murder. The mental state required for  
3 felony murder is the mental state required for the predicate  
4 felony or attempted felony; or

5 (3) by any act greatly dangerous to the lives  
6 of others, indicating a depraved mind regardless of human life,  
7 an offense termed depraved mind murder. The mental state  
8 required for depraved mind murder is knowledge that the act  
9 creates a substantial risk of death or great bodily harm to two  
10 or more people. Knowledge for purposes of depraved mind murder  
11 may be established by circumstantial evidence and may not be  
12 negated by evidence of voluntary intoxication.

13 Whoever commits murder in the first degree is guilty of a  
14 capital felony.

15 B. Unless he is acting ~~[upon sufficient provocation,~~  
16 ~~upon a sudden quarrel or in the heat of passion]~~ in  
17 circumstances that would elevate his offense to first degree  
18 murder or reduce it to manslaughter, a person who kills another  
19 human being without lawful justification or excuse commits  
20 murder in the second degree. ~~[if in performing the acts which~~  
21 ~~cause the death he knows that such acts create a strong~~  
22 ~~probability of death or great bodily harm to that individual or~~  
23 ~~another]~~ The mental state required for second degree murder is  
24 general criminal intent to commit the act that causes the death.

25 Murder in the second degree is a lesser included offense of

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1 the crime of murder in the first degree.

2 Whoever commits murder in the second degree is guilty of a  
3 second degree felony resulting in the death of a human being. "

4 Section 2. Section 30-2-3 NMSA 1978 (being Laws 1963,  
5 Chapter 303, Section 2-3, as amended) is amended to read:

6 "30-2-3. MANSLAUGHTER. -- Manslaughter is the [~~unlawful~~]  
7 killing of a human being [~~without malice~~] without lawful  
8 justification or excuse in circumstances that do not constitute  
9 murder.

10 A. Voluntary manslaughter consists of manslaughter  
11 committed upon a sudden quarrel or in the heat of passion.

12 Whoever commits voluntary manslaughter is guilty of a third  
13 degree felony resulting in the death of a human being.

14 B. Involuntary manslaughter consists of manslaughter  
15 committed in the commission of an unlawful act not amounting to  
16 felony, [~~or~~] other than a minor traffic offense; in the  
17 commission of a lawful act [~~which~~] that might produce death in  
18 an unlawful manner; or in the commission of a lawful act  
19 performed without due caution and circumspection.

20 Whoever commits involuntary manslaughter is guilty of a  
21 fourth degree felony. Involuntary manslaughter is a lesser  
22 included offense of homicide by vehicle. "