

SENATE BILL NO. 375—COMMITTEE ON JUDICIARY

(ON BEHALF OF DISTRICT ATTORNEYS ASSOCIATION)

MARCH 16, 2001

Referred to Committee on Judiciary

SUMMARY—Clarifies statutes concerning murder. (BDR 15-465)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; clarifying certain provisions relating to murder of the first degree, murder of the second degree and manslaughter; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 200.020 is hereby amended to read as follows:
2 200.020 1. Express malice is that ~~deliberate~~ intention unlawfully to
3 take away the life of a fellow creature, which is manifested by external
4 circumstances capable of proof.
5 2. Malice ~~shall~~ *may* be implied when no considerable provocation
6 appears, or when all the circumstances of the killing show an abandoned
7 and malignant heart.
8 **Sec. 2.** NRS 200.030 is hereby amended to read as follows:
9 200.030 1. Murder of the first degree is murder which is:
10 (a) Perpetrated by means of poison, lying in wait or torture, or by any
11 other kind of willful ~~deliberate~~ and premeditated killing;
12 (b) Committed in the perpetration or attempted perpetration of sexual
13 assault, kidnapping, arson, robbery, burglary, invasion of the home, sexual
14 abuse of a child, sexual molestation of a child under the age of 14 years or
15 child abuse;
16 (c) Committed to avoid or prevent the lawful arrest of any person by a
17 peace officer or to effect the escape of any person from legal custody; or
18 (d) Committed on the property of a public or private school, at an
19 activity sponsored by a public or private school or on a school bus while
20 the bus was engaged in its official duties by a person who intended to
21 create a great risk of death or substantial bodily harm to more than one



1 person by means of a weapon, device or course of action that would
2 normally be hazardous to the lives of more than one person.

3 2. Murder of the second degree is ~~fall other kinds of murder.~~ *murder*
4 *that is not murder of the first degree that:*

5 *(a) Occurs in the commission of an unlawful act, which, in its*
6 *consequences, naturally tends to destroy the life of a human being; or*

7 *(b) Is committed in the prosecution of a felonious intent.*

8 3. The jury before whom any person indicted for murder is tried shall,
9 if they find him guilty thereof, designate by their verdict whether he is
10 guilty of murder of the first or second degree.

11 4. A person convicted of murder of the first degree is guilty of a
12 category A felony and shall be punished:

13 (a) By death, only if one or more aggravating circumstances are found
14 and any mitigating circumstance or circumstances which are found do not
15 outweigh the aggravating circumstance or circumstances; or

16 (b) By imprisonment in the state prison:

17 (1) For life without the possibility of parole;

18 (2) For life with the possibility of parole, with eligibility for parole
19 beginning when a minimum of 20 years has been served; or

20 (3) For a definite term of 50 years, with eligibility for parole
21 beginning when a minimum of 20 years has been
22 served.

23 A determination of whether aggravating circumstances exist is not
24 necessary to fix the penalty at imprisonment for life with or without the
25 possibility of parole.

26 5. A person convicted of murder of the second degree is guilty of a
27 category A felony and shall be punished by imprisonment in the state
28 prison:

29 (a) For life with the possibility of parole, with eligibility for parole
30 beginning when a minimum of 10 years has been served; or

31 (b) For a definite term of 25 years, with eligibility for parole beginning
32 when a minimum of 10 years has been served.

33 6. As used in this section:

34 (a) "Child abuse" means physical injury of a nonaccidental nature to a
35 child under the age of 18 years;

36 (b) *"Premeditated" means an intent to kill that is formed in the mind*
37 *of the perpetrator after a period of reflection and judgment, of any*
38 *duration, at any time before or at the time of the killing;*

39 (c) "School bus" has the meaning ascribed to it in NRS 483.160;

40 ~~(c)~~ (d) "Sexual abuse of a child" means any of the acts described in
41 NRS 432B.100; and

42 ~~(d)~~ (e) "Sexual molestation" means any willful and lewd or lascivious
43 act, other than acts constituting the crime of sexual assault, upon or with
44 the body, or any part or member thereof, of a child under the age of 14
45 years, with the intent of arousing, appealing to, or gratifying the lust,
46 passions or sexual desires of the perpetrator or of the child.

47 **Sec. 3.** NRS 200.040 is hereby amended to read as follows:

48 200.040 1. Manslaughter is the unlawful killing of a human being,
49 without malice express or implied, and without ~~any mixture of~~



1 ~~deliberation.]~~ *premeditation. As used in this subsection, “premeditation”*
2 *means an intent to kill that is formed in the mind of the perpetrator after*
3 *a period of reflection and judgment, of any duration, at any time before*
4 *or at the time of the killing.*

5 2. Manslaughter must be voluntary, upon a sudden heat of passion,
6 caused by a provocation apparently sufficient to make the passion
7 irresistible, or involuntary, in the commission of an unlawful act, or a
8 lawful act without due caution or circumspection.

9 **Sec. 4.** NRS 200.060 is hereby amended to read as follows:

10 200.060 The killing must be the result of that sudden, violent impulse
11 of passion supposed to be irresistible; for, if there should appear to have
12 been an interval between the assault or provocation given and the killing,
13 sufficient for the voice of reason and humanity to be heard, the killing shall
14 be ~~attributed to deliberate revenge and~~ punished as murder.

15 **Sec. 5.** The amendatory provisions of this act do not apply to offenses
16 committed before October 1, 2001.

