

1989 Okla. Sess. Law Serv. 259 (West)

OKLAHOMA

1989 SESSION LAWS AND RESOLUTIONS

Forty-Second Legislature, First Regular Session

Additions are indicated by <<+ UPPERCASE +>>

Deletions by <<- Lowercase ->>

CHAPTER 259

S.B.No. 404

and

CRIMES AND PUNISHMENTS—FIRST DEGREE  
MURDER—CONTROLLED DANGEROUS SUBSTANCES

AN ACT RELATING TO CRIMES AND PUNISHMENTS; AMENDING 21 O.S. 1981, SECTIONS 701.7, AS AMENDED BY SECTION 1, CHAPTER 279, O.S.L. 1982 AND 701.16 (21 O.S. SUPP. 1988, SECTION 701.7), WHICH RELATE TO MURDER; DECLARING CERTAIN DRUG-RELATED HOMICIDES TO BE MURDER IN THE FIRST DEGREE; DECLARING SOLICITATION TO CAUSE DEATH OF A PERSON IN FURTHERANCE OF CERTAIN DRUG-RELATED CRIMES TO BE MURDER IN THE FIRST DEGREE; CLARIFYING LANGUAGE; AMENDING 63 O.S. 1981, SECTION 2-408, WHICH RELATES TO ENDEAVOR AND CONSPIRACY TO COMMIT OFFENSE CONCERNING CONTROLLED DANGEROUS SUBSTANCES; PROHIBITING THE OFFERING OR SOLICITING TO COMMIT CERTAIN OFFENSES; MODIFYING STATUTORY REFERENCES; PROVIDING FOR OFFENSE COMMITTED WITHIN CERTAIN DISTANCE OF CERTAIN SCHOOLS, COLLEGES AND UNIVERSITIES; PROVIDING FOR ENHANCED PENALTY; EXCLUDING CERTAIN DEFENSE TO VIOLATION OF UNIFORM CONTROLLED DANGEROUS SUBSTANCES ACT; PROVIDING PENALTIES FOR USE OF CERTAIN PERSONS FOR PARTICIPATION WITH CONTROLLED DANGEROUS SUBSTANCES; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

OK ST T. 21 § 701.7

SECTION 1. AMENDATORY 21 O.S. 1981, Section 701.7, as amended by Section 1, Chapter 279, O.S.L. 1982 (21 O.S. Supp. 1988, Section 701.7), is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when he unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree when he takes the life of a human being, regardless of malice, in the commission of forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, first degree burglary <<-or->><<+,+>> first degree arson<<+, UNLAWFUL DISTRIBUTING OR DISPENSING OF CONTROLLED DANGEROUS SUBSTANCES, OR TRAFFICKING IN ILLEGAL DRUGS+>>.

C. A person commits murder in the first degree when the death of a child results from the <<+WILLFUL OR MALICIOUS+>> injuring, torturing, maiming or using of unreasonable force by said person <<+OR WHO SHALL

WILLFULLY CAUSE, PROCURE OR PERMIT ANY OF SAID ACTS TO BE DONE+>> upon the child pursuant to Section 843 of this title.

<<+D. A PERSON COMMITS MURDER IN THE FIRST DEGREE WHEN HE UNLAWFULLY AND WITH MALICE AFORETHOUGHT SOLICITS ANOTHER PERSON OR PERSONS TO CAUSE THE DEATH OF A HUMAN BEING IN FURTHERANCE OF UNLAWFULLY MANUFACTURING, DISTRIBUTING OR DISPENSING CONTROLLED DANGEROUS SUBSTANCES, AS DEFINED IN THE UNIFORM CONTROLLED DANGEROUS SUBSTANCES ACT, UNLAWFULLY POSSESSING WITH INTENT TO DISTRIBUTE OR DISPENSE CONTROLLED DANGEROUS SUBSTANCES, OR TRAFFICKING IN ILLEGAL DRUGS.+>>

OK ST T. 21 § 701.16

SECTION 2. AMENDATORY 21 O.S. 1981, Section 701.16, is amended to read as follows:

Section 701.16 It shall be unlawful for any person or agent of that person to solicit another person or persons to cause the death of a human being by the act of murder in the first degree as is defined by Title 21 O.S., Section 701.7. A person who is convicted, pleads guilty or pleads nolo contendere to the act of Solicitation For Murder in the first degree<<+, EXCEPT AS PROVIDED IN SECTION 701.7 OF THIS TITLE,+>> shall be punished by imprisonment in a state penal institution for not less than five (5) years nor more than life imprisonment in the State Penitentiary.

OK ST T. 63 § 2-408

SECTION 3. AMENDATORY 63 O.S. 1981, Section 2-408, is amended to read as follows:

Section 2-408. Any person who <<+OFFERS, SOLICITS,+>> attempts, endeavors, or conspires to commit any offense defined in <<-this act->> <<+THE UNIFORM CONTROLLED DANGEROUS SUBSTANCES ACT, SECTION 2-101 ET SEQ. OF THIS TITLE+>> shall be subject to the penalty prescribed for the offense, the commission of which was the object of the <<+OFFER, SOLICITATION, ATTEMPT,+>> endeavor or conspiracy.

OK ST T. 63 § 2-418

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-418 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any person who violates Section 2-401 of Title 63 of the Oklahoma Statutes, by distributing a controlled substance to an individual, in or on, or within one thousand (1,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private college or university shall be guilty of a felony and upon conviction shall be punishable by a term of imprisonment, or fine, or both, not exceeding twice that otherwise authorized by the applicable section of law and shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence.

B. A person who violates subsection A of this section after a previous conviction pursuant to that subsection which has become final, shall be punishable by a term of imprisonment not exceeding three times that otherwise authorized by the applicable section of law and shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence.

C. It shall not be a defense to prosecution for a violation of this section that the violator was unaware that the prohibited conduct took place while on or within one thousand (1,000) feet of any school property.

. OK ST T. 63 § 2-419

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-419 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any individual eighteen (18) or more years of age to solicit, employ, hire, or use an individual under eighteen (18) years of age to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any controlled dangerous substance.

B. A person who violates subsection A of this section shall be guilty of a felony and upon conviction shall be punishable by a term of imprisonment, or fine, or both, not exceeding twice that authorized by Section 2-401 of Title 63 of the Oklahoma Statutes.

C. A person who violates subsection A of this section after a previous conviction pursuant to that subsection which has become final, shall be punishable by a term of imprisonment not exceeding three times that authorized by Section 2-401 of Title 63 of the Oklahoma Statutes.

D. A person who violates subsection A of this section by employing, hiring, or using an individual under fifteen (15) years of age, may be imprisoned for not more than twenty-five (25) years, fined not more than One Hundred Thousand Dollars (\$100,000.00), or both, in addition to any other punishment authorized by this section.

E. It shall not be a defense to this section that a person did not know the age of an individual.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Approved May 19, 1989.

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