

Select Year: 2011

## The 2011 Florida Statutes

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CRIMES

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HOMICIDE

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### 782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

- a. Trafficking offense prohibited by s. [893.135\(1\)](#),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,
- h. Aggravated child abuse,
- i. Aggravated abuse of an elderly person or disabled adult,
- j. Aircraft piracy,
- k. Unlawful throwing, placing, or discharging of a destructive device or bomb,
- l. Carjacking,
- m. Home-invasion robbery,
- n. Aggravated stalking,
- o. Murder of another human being,
- p. Resisting an officer with violence to his or her person,
- q. Felony that is an act of terrorism or is in furtherance of an act of terrorism; or

3. Which resulted from the unlawful distribution of any substance controlled under s. [893.03\(1\)](#), cocaine as described in s. [893.03\(2\)\(a\)4.](#), opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or methadone by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. [775.082](#).

(b) In all cases under this section, the procedure set forth in s. [921.141](#) shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as

provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When a person is killed in the perpetration of, or in the attempt to perpetrate, any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Carjacking,
- (m) Home-invasion robbery,
- (n) Aggravated stalking,
- (o) Murder of another human being,
- (p) Resisting an officer with violence to his or her person, or
- (q) Felony that is an act of terrorism or is in furtherance of an act of terrorism,

by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony is guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,
- (m) Carjacking,
- (n) Home-invasion robbery,
- (o) Aggravated stalking,

- (p) Murder of another human being,
- (q) Resisting an officer with violence to his or her person, or
- (r) Felony that is an act of terrorism or is in furtherance of an act of terrorism,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(5) As used in this section, the term "terrorism" means an activity that:

- (a)1. Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
- 2. Involves a violation of s. [815.06](#); and
- (b) Is intended to:
  - 1. Intimidate, injure, or coerce a civilian population;
  - 2. Influence the policy of a government by intimidation or coercion; or
  - 3. Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

**History.**—s. 2, ch. 1637, 1868; RS 2380; GS 3205; RGS 5035; s. 1, ch. 8470, 1921; CGL 7137; s. 1, ch. 28023, 1953; s. 712, ch. 71-136; s. 3, ch. 72-724; s. 14, ch. 74-383; s. 6, ch. 75-298; s. 1, ch. 76-141; s. 290, ch. 79-400; s. 1, ch. 82-4; s. 1, ch. 82-69; s. 1, ch. 84-16; s. 6, ch. 87-243; ss. 2, 4, ch. 89-281; s. 4, ch. 90-112; s. 3, ch. 93-212; s. 11, ch. 95-195; s. 18, ch. 96-322; s. 1, ch. 98-417; s. 10, ch. 99-188; s. 16, ch. 2000-320; s. 2, ch. 2001-236; s. 2, ch. 2001-357; s. 1, ch. 2002-212; s. 12, ch. 2005-128; s. 1, ch. 2010-121.