

SUBCHAPTER III. OFFENSES AGAINST THE PERSON.

Article 6.

Homicide.

§ 14-17. Murder in the first and second degree defined; punishment.

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished in accordance with Part 2A of Article 81B of Chapter 15A of the General Statutes.

(a1) If a murder was perpetrated with malice as described in subdivision (1) of subsection (b) of this section, and committed against a spouse, former spouse, a person with whom the defendant lives or has lived as if married, a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), or a person with whom the defendant shares a child in common, there shall be a rebuttable presumption that the murder is a "willful, deliberate, and premeditated killing" under subsection (a) of this section and shall be deemed to be murder in the first degree, a Class A felony, if the perpetrator has previously been convicted of one of the following offenses involving the same victim:

- (1) An act of domestic violence as defined in G.S. 50B-1(a).
- (2) A violation of a domestic violence protective order under G.S. 50B-4.1(a), (f), (g), or (g1) or G.S. 14-269.8 when the same victim is the subject of the domestic violence protective order.
- (3) Communicating a threat under G.S. 14-277.1.
- (4) Stalking as defined in G.S. 14-277.3A.
- (5) Cyberstalking as defined in G.S. 14-196.3.
- (6) Domestic criminal trespass as defined in G.S. 14-134.3.

(b) A murder other than described in subsection (a) or (a1) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon in either of the following circumstances:

- (1) The malice necessary to prove second degree murder is based on an inherently dangerous act or omission, done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.
- (2) The murder is one that was proximately caused by the unlawful distribution of any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, or opiate, or opioid; cocaine or other substance described in G.S. 90-90(1)d.; methamphetamine; or a depressant described in G.S. 90-92(a)(1), and the ingestion of such substance caused the death of the user.

(c) For the purposes of this section, it shall constitute murder where a child is born alive but dies as a result of injuries inflicted prior to the child being born alive. The degree of murder shall be determined as described in subsections (a) and (b) of this section. (1893, cc. 85, 281; Rev., s. 3631; C.S., s. 4200; 1949, c. 299, s. 1; 1973, c. 1201, s. 1; 1977, c. 406, s. 1; 1979, c. 682, s. 6; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1251, ss. 1, 2; c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; c. 662, s. 1; 1987, c. 693; 1989, c. 694; 1993, c. 539, s. 112; 1994, Ex. Sess., c. 21, s. 1; c. 22, s. 4; c. 24, s. 14(c); 2001-470, s. 2; 2004-178, s. 1; 2007-81, s. 1; 2012-165, s. 1; 2013-47, s. 2; 2013-410, s. 3(a); 2017-94, s. 1; 2017-115, s. 9.)

§ 14-17.1. Crime of suicide abolished.

The common-law crime of suicide is hereby abolished as an offense. (1973, c. 1205.)

§ 14-18. Punishment for manslaughter.

Voluntary manslaughter shall be punishable as a Class D felony, and involuntary manslaughter shall be punishable as a Class F felony. (4 Hen. VII, s. 13; 1816, c. 918, P.R.; R.C., c. 34, s. 24; 1879, c. 255; Code, s. 1055; Rev., s. 3632; C.S., s. 4201; 1933, c. 249; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 112; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(q).)

§ 14-18.1: Repealed by Session Laws 1994, Extra Session, c. 14, s. 73.

§ 14-18.2: Repealed by Session Laws 2011-60, s. 3, effective December 1, 2011, and applicable to offenses committed on or after that date.

§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by distribution of certain controlled substances; penalties.

(a) Legislative Intent. – The General Assembly recognizes that deaths due to the opioid epidemic are devastating families and communities across North Carolina. The General Assembly finds that the opioid crisis is overwhelming medical providers engaged in the lawful distribution of controlled substances and is straining prevention and treatment efforts. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system to hold illegal drug dealers accountable for criminal conduct that results in death.

(b) Death by Distribution of Certain Controlled Substances. – A person is guilty of death by distribution of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.

(c) Aggravated Death by Distribution of Certain Controlled Substances. – A person is guilty of aggravated death by distribution of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.
- (5) The person has a previous conviction under this section, G.S. 90-95(a)(1), 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within seven years of the date of the offense. In calculating the seven-year period under this subdivision, any period of time during which the person was incarcerated in a local, state, or federal detention center, jail, or prison shall be excluded.

(d) **Certain Controlled Substance.** – For the purposes of this section, the term "certain controlled substance" includes any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or a mixture of one or more of these substances.

(e) **Lesser Included Offense.** – Death by distribution of certain controlled substances constitutes a lesser included offense of aggravated death by distribution of certain controlled substances in violation of this section.

(f) **Samaritan Protection.** – Nothing in this section shall be construed to restrict or interfere with the rights and immunities provided under G.S. 90-96.2.

(g) **Lawful Distribution.** – This section shall not apply to any of the following:

- (1) Issuing a valid prescription for a controlled substance for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice.
- (2) Dispensing, delivering, or administering a controlled substance pursuant to a prescription, by a pharmacy permitted under G.S. 90-85.21, a pharmacist, or an individual practitioner.

(h) **Penalties.** – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

- (1) Death by distribution of certain controlled substances is a Class C felony.
- (2) Aggravated death by distribution of certain controlled substances is a Class B2 felony. (2019-83, s. 1.)

§ 14-19. Repealed by Session Laws 1979, c. 760, s. 5, effective July 1, 1981.

§ 14-20: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 29(1).

§§ 14-21 through 14-23. Repealed by Session Laws 1979, c. 682, s. 7, effective January 1, 1980.