

SB1788



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1788

Introduced 2/5/2025, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

720 ILCS 5/9-1
720 ILCS 5/9-2

from Ch. 38, par. 9-1
from Ch. 38, par. 9-2

Amends the Criminal Code of 2012. Eliminates the felony murder provisions from the first degree murder statute. Provides that a person commits second degree murder when he or she, acting alone or with one or more participants, commits or attempts to commit a forcible felony, other than first degree murder, and in the course of or in furtherance of the crime or flight from the crime, he or she or another participant causes the death of a person, other than one of the participants.

LRB104 04656 RLC 19303 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 9-1 and 9-2 as follows:

6 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

7 Sec. 9-1. First degree murder.

8 (a) A person who kills an individual without lawful
9 justification commits first degree murder if, in performing
10 the acts which cause the death:

11 (1) he or she either intends to kill or do great bodily
12 harm to that individual or another, or knows that such
13 acts will cause death to that individual or another; or

14 (2) he or she knows that such acts create a strong
15 probability of death or great bodily harm to that
16 individual or another; or

17 (3) (blank). ~~he or she, acting alone or with one or~~
18 ~~more participants, commits or attempts to commit a~~
19 ~~forcible felony other than second degree murder, and in~~
20 ~~the course of or in furtherance of such crime or flight~~
21 ~~therefrom, he or she or another participant causes the~~
22 ~~death of a person.~~

23 (b) (Blank).

1 (b-5) (Blank).

2 (c) (Blank).

3 (d) (Blank).

4 (e) (Blank).

5 (f) (Blank).

6 (g) (Blank).

7 (h) (Blank).

8 (h-5) (Blank).

9 (i) (Blank).

10 (j) (Blank).

11 (k) (Blank).

12 (Source: P.A. 103-51, eff. 1-1-24; 103-605, eff. 7-1-24.)

13 (720 ILCS 5/9-2) (from Ch. 38, par. 9-2)

14 Sec. 9-2. Second degree murder.

15 (a) A person commits the offense of second degree murder
16 when:

17 (1) he or she, acting alone or with one or more
18 participants, commits or attempts to commit a forcible
19 felony, other than first degree murder, and in the course
20 of or in furtherance of the crime or flight from the crime,
21 he or she or another participant causes the death of a
22 person, other than one of the participants; or

23 (2) he or she commits the offense of first degree
24 murder as defined in paragraph (1) or (2) of subsection
25 (a) of Section 9-1 of this Code and either of the following

1 mitigating factors are present:

2 (A) ~~(1)~~ at the time of the killing he or she is
3 acting under a sudden and intense passion resulting
4 from serious provocation by the individual killed or
5 another whom the offender endeavors to kill, but he or
6 she negligently or accidentally causes the death of
7 the individual killed; or

8 (B) ~~(2)~~ at the time of the killing he or she
9 believes the circumstances to be such that, if they
10 existed, would justify or exonerate the killing under
11 the principles stated in Article 7 of this Code, but
12 his or her belief is unreasonable.

13 (b) Serious provocation is conduct sufficient to excite an
14 intense passion in a reasonable person provided, however, that
15 an action that does not otherwise constitute serious
16 provocation cannot qualify as serious provocation because of
17 the discovery, knowledge, or disclosure of the victim's sexual
18 orientation as defined in Section 1-103 of the Illinois Human
19 Rights Act.

20 (c) When evidence of either of the mitigating factors
21 defined in subsection (a) of this Section has been presented,
22 the burden of proof is on the defendant to prove either
23 mitigating factor by a preponderance of the evidence before
24 the defendant can be found guilty of second degree murder. The
25 burden of proof, however, remains on the State to prove beyond
26 a reasonable doubt each of the elements of first degree murder

1 and, when appropriately raised, the absence of circumstances
2 at the time of the killing that would justify or exonerate the
3 killing under the principles stated in Article 7 of this Code.

4 (d) Sentence. Second degree murder is a Class 1 felony.

5 (Source: P.A. 100-460, eff. 1-1-18.)