

Senate Engrossed

felony murder; fentanyl; sentencing

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1029

AN ACT

AMENDING SECTION 13-1105, ARIZONA REVISED STATUTES; RELATING TO HOMICIDE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1105, Arizona Revised Statutes, is amended to
3 read:

4 13-1105. First degree murder; classification

5 A. A person commits first degree murder if:

6 1. Intending or knowing that the person's conduct will cause death,
7 the person causes the death of another person, including an unborn child,
8 with premeditation or, as a result of causing the death of another person
9 with premeditation, causes the death of an unborn child.

10 2. Acting either alone or with one or more other persons the person
11 commits or attempts to commit sexual conduct with a minor under section
12 13-1405, sexual assault under section 13-1406, molestation of a child
13 under section 13-1410, terrorism under section 13-2308.01, marijuana
14 offenses under section 13-3405, subsection A, paragraph 4, dangerous drug
15 offenses under section 13-3407, subsection A, paragraphs 4 and 7,
16 narcotics offenses under section 13-3408, subsection A, paragraph 7 that
17 equal or exceed the statutory threshold amount for each offense or
18 combination of offenses, **NARCOTICS OFFENSES UNDER SECTION 13-3408,**
19 **SUBSECTION A, PARAGRAPHS 2, 4 AND 7 IF THE NARCOTIC INVOLVED IS FENTANYL,**
20 **THE NARCOTICS OFFENSE WAS COMMITTED AS PART OF THE PERSON'S ASSOCIATION**
21 **WITH AND PARTICIPATION IN THE CONDUCT OF AN ENTERPRISE AS DEFINED IN**
22 **SECTION 13-2301, SUBSECTION D, PARAGRAPH 2 THAT IS ENGAGED IN DEALING IN**
23 **ILLEGAL DRUGS AND THE PERSON ORGANIZED, MANAGED, DIRECTED, SUPERVISED OR**
24 **FINANCED THE ENTERPRISE WITH THE INTENT TO PROMOTE OR FURTHER ITS CRIMINAL**
25 **OBJECTIVES,** involving or using minors in drug offenses under section
26 13-3409, drive by shooting under section 13-1209, kidnapping under section
27 13-1304, burglary under section 13-1506, 13-1507 or 13-1508, arson under
28 section 13-1703 or 13-1704, robbery under section 13-1902, 13-1903 or
29 13-1904, escape under section 13-2503 or 13-2504, child abuse under
30 section 13-3623, subsection A, paragraph 1 or unlawful flight from a
31 pursuing law enforcement vehicle under section 28-622.01 and, in the
32 course of and in furtherance of the offense or immediate flight from the
33 offense, the person or another person causes the death of any person.

34 3. Intending or knowing that the person's conduct will cause death
35 to a law enforcement officer, the person causes the death of a law
36 enforcement officer who is in the line of duty.

37 B. Homicide, as prescribed in subsection A, paragraph 2 of this
38 section, requires no specific mental state other than what is required for
39 the commission of any of the enumerated felonies.

40 C. An offense under subsection A, paragraph 1 of this section
41 applies to an unborn child in the womb at any stage of its development. A
42 person shall not be prosecuted under subsection A, paragraph 1 of this
43 section if any of the following applies:

44 1. The person was performing an abortion for which the consent of
45 the pregnant woman, or a person authorized by law to act on the pregnant

1 woman's behalf, has been obtained or for which the consent was implied or
2 authorized by law.

3 2. The person was performing medical treatment on the pregnant
4 woman or the pregnant woman's unborn child.

5 3. The person was the unborn child's mother.

6 D. First degree murder is a class 1 felony and is punishable by
7 death or life imprisonment as provided by sections 13-751 and 13-752.