

## EXCERPTS FROM STATE OF MAJOR CRIMINAL STATUTES

### Major Penal Code

#### §236 Assault Defined – 1st, 2nd, and 3rd Degree

**Assault Defined.** An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

(1) **Assault in the 1st Degree** is an assault done with a firearm, or deadly weapon or instrumentality, or by a force or means likely to inflict grievous bodily injury or death.

(2) **Assault in the 2nd Degree** is an assault done with a weapon or other instrument or thing likely to inflict bodily injury.

(3) **Assault in the 3rd Degree** is an assault accomplished without a weapon or instrumentality, but done with the intent of inflicting bodily injury.

#### §241 Murder – 1st and 2nd Degree

All murder which is perpetrated by means of a destructive device or explosive, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, mayhem, is murder of the first degree; and all other kinds of murders are of the second degree, including death resulting from a wanton act done with reckless indifference to human life.

#### §244 Manslaughter – Voluntary, Involuntary, and Vehicular

**Manslaughter** is the unlawful killing of a human being without malice. It is of three kinds:

(a) **Voluntary** – upon a sudden quarrel or heat of passion

(b) **Involuntary** – in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without

due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) **Vehicular.** [deleted]

#### §246 Excusable Homicide

Homicide is excusable in the following cases:

(1) When committed by accident and misfortune, . . . or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent.

#### §291 Penalties for Homicide

Penalties for homicide shall be as follows:

(a) **1st-degree Murder** – life imprisonment in state prison.

(b) **2nd-degree Murder** – 20-50 years imprisonment in state prison.

(c) **Voluntary Manslaughter** – 10-20 years imprisonment in state prison.

(d) **Involuntary Manslaughter** – 5-10 years imprisonment in state prison.

Where a penalty provides a range (e.g., 20-50 years), the trial court will set the exact sentence along the range. The parole board may then parole a defendant when he or she has served one-half of the minimum term except, as to life terms, a defendant becomes eligible for parole in 25 years.

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#### §307 Enhancements

(3) **Use of a Firearm.** Anyone found to have used a firearm during the commission of a crime punishable by imprisonment in state prison shall be sentenced to an additional 5 years in prison. Such additional term is to commence upon the completion of the sentence for the underlying crime.