

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45349-MS-109A (03/16)

Short Title: Britny's Law: IPV Homicide.

(Public)

Sponsors: Senators Barefoot, J. Jackson, and Britt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ACKNOWLEDGE AND PROVIDE FOR DOMESTIC VIOLENCE HOMICIDE
3 IN THE STATUTORY SCHEME FOR FIRST AND SECOND DEGREE HOMICIDE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 14-17 reads as rewritten:

6 "§ 14-17. Murder in the first and second degree defined; punishment.

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

17 (a1) A murder shall be presumed "willful, deliberate, and premeditated killing" under
18 subsection (a) of this section, and thereby to be a murder in the first degree, a Class A felony, if
19 the murder is committed upon a spouse, former spouse, a person with whom the defendant lives
20 or has lived as if married, a person with whom the defendant is or has been in a dating
21 relationship as defined in G.S. 50B-1(b)(6), or a person with whom the defendant shares a child
22 in common, if the murder was perpetrated by malice as described in subdivision (1) of
23 subsection (b) of this section, and one of the following additional factors is present:

24 (1) The perpetrator has previously been convicted of one of the following
25 offenses involving the same victim:

26 a. Any crime involving the violation of a domestic violence protective
27 order under G.S. 50B-4(a), (f), (g), or (g1) or G.S. 14-269.8 when the
28 same victim is the subject of the domestic violence protective order;

29 b. Any crime in which assault is an element;

30 c. Communicating threats (G.S. 14-277.1) or harassing phone calls
31 (G.S. 14-196); or

32 d. Any felony listed in G.S. 15A-830.

33 (2) The perpetrator has previously stalked the victim, as defined in
34 G.S. 14-277.3A; or

35 (3) On more than one prior occasion engaged in an act of domestic violence as
36 defined in G.S. 50B-1(a) upon the victim.



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

5 (1) The malice necessary to prove second degree murder is based on an
6 inherently dangerous act or omission, done in such a reckless and wanton
7 manner as to manifest a mind utterly without regard for human life and
8 social duty and deliberately bent on mischief.

9 (2) The murder is one that was proximately caused by the unlawful distribution
10 of opium or any synthetic or natural salt, compound, derivative, or
11 preparation of opium, or cocaine or other substance described in
12 G.S. 90-90(1)d., or methamphetamine, and the ingestion of such substance
13 caused the death of the user.

14 (c) For the purposes of this section, it shall constitute murder where a child is born alive
15 but dies as a result of injuries inflicted prior to the child being born alive. The degree of murder
16 shall be determined as described in subsections (a) and (b) of this section."

17 **SECTION 2.** This act becomes effective December 1, 2017, and applies to
18 offenses committed on or after that date.