

### **39-13-202. First degree murder.**

**(a)** First degree murder is:

**(1)** A premeditated and intentional killing of another;

**(2)** A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, arson, robbery, burglary, theft, kidnapping, aggravated abuse of an elderly or vulnerable adult in violation of § 39-15-511, aggravated neglect of an elderly or vulnerable adult in violation of § 39-15-508, aggravated child abuse, aggravated child neglect, or aircraft piracy;

**(3)** A killing of another committed as the result of the unlawful throwing, placing, or discharging of a destructive device or bomb;

**(4)** A killing of another in the perpetration or attempted perpetration of an act of terrorism in violation of § 39-13-805; or

**(5)** A killing of another in the perpetration or attempted perpetration of an aggravated rape, rape, rape of a child, or aggravated rape of child.

**(b) No culpable mental state is required for conviction under subdivisions (a)(2)-(5), except the intent to commit the enumerated offenses or acts in those subdivisions.**

**(c)**

**(1)** Except as provided in subdivision (c)(2), a person convicted of first degree murder under subdivisions (a)(1)-(5) shall be punished by:

**(A)** Death;

**(B)** Imprisonment for life without possibility of parole; or

**(C)** Imprisonment for life.

**(2)** If a person convicted of first degree murder under subdivisions (a)(4) and (5) was an adult at the time of commission of the offense, then the person shall be punished by:

**(A)** Death; or

**(B)** Imprisonment for life without possibility of parole.

**(d)** Notwithstanding § 39-12-107, a person convicted of attempted first degree murder **may** be sentenced to imprisonment for **life without possibility of parole** if the court finds the person committed the offense against any law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker,

emergency medical technician, paramedic, or firefighter, who was engaged in the performance of official duties, and the person knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter engaged in the performance of official duties.

**(e)** As used in subdivision (a)(1), "**premeditation**" is an act done after the exercise of reflection and judgment. "Premeditation" means that the intent to kill must have been formed prior to the act itself. It is not necessary that the purpose to kill preexist in the mind of the accused for any definite period of time. The mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation.