

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1858

By: Morgan

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2001, Sections 540A and 701.7, as amended by Section 2, Chapter 520, O.S.L. 2004 (21 O.S. Supp. 2005, Section 701.7), which relate to eluding an officer and murder in the first degree; expanding certain offense; modifying language; increasing certain penalty; making death of any person a felony or murder in the first degree; stating penalty; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 540A, is amended to read as follows:

Section 540A. A. Any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren from a peace officer driving a motor vehicle showing the same to be an official police, sheriff, highway patrol or state game ranger vehicle directing the operator to bring the vehicle to a stop and who willfully increases the speed or extinguishes the lights of the vehicle in an attempt to elude such peace officer, or willfully attempts in any other manner to elude the peace officer, or who does elude such peace officer, is guilty of a misdemeanor. ~~The peace officer, while attempting to stop a violator of this section, may communicate a request for the assistance of other peace officers from any office, department or agency. Any peace officer within this state having knowledge of such request is authorized to render such assistance in stopping the violator and may effect an arrest under this section upon probable cause. Violation of this subsection shall constitute a misdemeanor and shall be punishable by not more than one (1) year imprisonment in the county jail for a~~

term not more than one (1) year, or by a fine of in an amount not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment. ~~A~~ Any second or subsequent violation of this subsection shall be punishable by imprisonment in the county jail for a term not more than one (1) year in the county jail, or by a fine of in an amount not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

B. The peace officer, while attempting to stop a violator of this section, may communicate a request for the assistance of other peace officers from any office, department or agency. Any peace officer within this state having knowledge of such request is authorized to render such assistance in stopping the violator and may effect an arrest under this section upon probable cause.

C. Any person who violates the provisions of subsection A of this section in such manner as to endanger any other person, or cause any form of chase or involve the assistance of other law enforcement agencies shall be deemed guilty of a felony punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term ~~of~~ not less than one (1) year nor more than five (5) years, or by a fine of in an amount not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

~~C.~~ D. 1. Any person who causes an accident, while eluding or attempting to elude an officer, resulting in great bodily injury to any other person while driving or operating a motor vehicle within this state and who is in violation of the provisions of subsection A of this section may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable by imprisonment in ~~a state correctional institution~~ the custody of the Department of Corrections for a term not less than

~~one (1) year and not two (2) years nor more than five (5) seven (7)~~
years, and by a fine of in an amount not more than Five Thousand Dollars (\$5,000.00).

2. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

E. Any person, in violation of the provisions of subsection A of this section, who causes an accident resulting in death to any other person may be charged with a violation of the provisions of this subsection or Section 701.7 of this title for felony murder. Such violation charged under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, and by a fine of not more than Five Thousand Dollars (\$5,000.00).

SECTION 2. AMENDATORY 21 O.S. 2001, Section 701.7, as amended by Section 2, Chapter 520, O.S.L. 2004 (21 O.S. Supp. 2005, Section 701.7), is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous

weapon, kidnapping, escape from lawful custody, eluding an officer, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, or trafficking in illegal drugs.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes. It is sufficient for the crime of murder in the first degree that the person either willfully tortured or used unreasonable force upon the child or maliciously injured or maimed the child.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

E. A person commits murder in the first degree when that person intentionally causes the death of a law enforcement officer or correctional officer while the officer is in the performance of official duties.

SECTION 3. This act shall become effective July 1, 2006.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.