

## 2012 Kansas Statutes

**21-5402. Murder in the first degree.** (a) Murder in the first degree is the killing of a human being committed:

- (1) Intentionally, and with premeditation; or
- (2) in the commission of, attempt to commit, or flight from any inherently dangerous felony.
- (b) Murder in the first degree is an off-grid person felony.
- (c) As used in this section, an "inherently dangerous felony" means:
  - (1) Any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2):
    - (A) Kidnapping, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;
    - (B) aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;
    - (C) robbery, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5420, and amendments thereto;
    - (D) aggravated robbery, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5420, and amendments thereto;
    - (E) rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto;
    - (F) aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;
    - (G) abuse of a child, as defined in K.S.A. 2012 Supp. 21-5602, and amendments thereto;
    - (H) felony theft of property as defined in subsection (a)(1) or (a)(3) of K.S.A. 2012 Supp. 21-5801, and amendments thereto;
    - (I) burglary, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto;
    - (J) aggravated burglary, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5807, and amendments thereto;
    - (K) arson, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5812, and amendments thereto;
    - (L) aggravated arson, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5812, and amendments thereto;
    - (M) treason, as defined in K.S.A. 2012 Supp. 21-5901, and amendments thereto;
    - (N) any felony offense as provided in K.S.A. 2012 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto;
    - (O) any felony offense as provided in subsection (a) or (b) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;
    - (P) endangering the food supply, as defined in subsection (a) of K.S.A. 2012 Supp. 21-6317, and amendments thereto;
    - (Q) aggravated endangering the food supply, as defined in subsection (b) of K.S.A. 2012 Supp. 21-6317, and amendments thereto;
    - (R) fleeing or attempting to elude a police officer, as defined in subsection (b) of K.S.A. 8-1568, and amendments thereto;
    - (S) aggravated endangering a child, as defined in subsection (b)(1) of K.S.A. 2012 Supp. 21-5601, and amendments thereto;
    - (T) abandonment of a child, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5605, and amendments thereto; or
    - (U) aggravated abandonment of a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments thereto; and
  - (2) any of the following felonies, only when such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as to not be an ingredient of the homicide alleged to be a violation of subsection (a)(2):
    - (A) Murder in the first degree, as defined in subsection (a)(1);
    - (B) murder in the second degree, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-5403, and amendments thereto;
    - (C) voluntary manslaughter, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-5404, and amendments thereto;
    - (D) aggravated assault, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5412, and amendments thereto;
    - (E) aggravated assault of a law enforcement officer, as defined in subsection (d) of K.S.A. 2012 Supp. 21-5412, and amendments thereto;
    - (F) aggravated battery, as defined in subsection (b)(1) of K.S.A. 2012 Supp. 21-5413, and amendments thereto; or
    - (G) aggravated battery against a law enforcement officer, as defined in subsection (d) of K.S.A. 2012 Supp. 21-5413, and amendments thereto.

**History:** L. 2010, ch. 136, § 37; L. 2012, ch. 150, § 4; July 1.