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**SENATE BILL 5313**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators MacEwen and L. Wilson

Read first time 01/12/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to murder in the first degree; and amending RCW  
2 9A.32.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.32.030 and 1990 c 200 s 1 are each amended to  
5 read as follows:

6 (1) A person is guilty of murder in the first degree when:

7 (a) With a premeditated intent to cause the death of another  
8 person, he or she causes the death of such person or of a third  
9 person; or

10 (b) Under circumstances manifesting an extreme indifference to  
11 human life, he or she engages in conduct which creates a grave risk  
12 of death to any person, and thereby causes the death of a person; or

13 (c) He or she commits or attempts to commit the crime of either  
14 ~~((1))~~ (i) robbery in the first or second degree, ~~((2))~~ (ii) rape  
15 in the first or second degree, ~~((3))~~ (iii) burglary in the first  
16 degree, ~~((4))~~ (iv) arson in the first or second degree, or ~~((5))~~  
17 (v) kidnapping in the first or second degree, and in the course of or  
18 in furtherance of such crime or in immediate flight therefrom, he or  
19 she, or another participant, causes the death of a person other than  
20 one of the participants: Except that in any prosecution under this  
21 ~~((subdivision))~~ subsection (1)(c) in which the defendant was not the

1 only participant in the underlying crime, if established by the  
2 defendant by a preponderance of the evidence, it is a defense that  
3 the defendant:

4 (i) Did not commit the homicidal act or in any way solicit,  
5 request, command, importune, cause, or aid the commission thereof;  
6 and

7 (ii) Was not armed with a deadly weapon, or any instrument,  
8 article, or substance readily capable of causing death or serious  
9 physical injury; and

10 (iii) Had no reasonable grounds to believe that any other  
11 participant was armed with such a weapon, instrument, article, or  
12 substance; and

13 (iv) Had no reasonable grounds to believe that any other  
14 participant intended to engage in conduct likely to result in death  
15 or serious physical injury; or

16 (d) He or she unlawfully delivers a controlled substance that is  
17 a Schedule I controlled substance in violation of RCW 69.50.401(2)  
18 (a), (b), or (c) which controlled substance is subsequently used by  
19 the person to whom it was delivered, resulting in the death of the  
20 user.

21 (2) Murder in the first degree is a class A felony.

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