S-0397.1

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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

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

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

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

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

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

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

(c) He or she commits or attempts to commit the crime of either ((~~(1)~~)) (i) robbery in the first or second degree, ((~~(2)~~)) (ii) rape in the first or second degree, ((~~(3)~~)) (iii) burglary in the first degree, ((~~(4)~~)) (iv) arson in the first or second degree, or ((~~(5)~~)) (v) kidnapping in the first or second degree, and in the course of or in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants: Except that in any prosecution under this ((~~subdivision~~)) subsection (1)(c) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

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

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

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

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

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

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

**--- END ---**