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## West Virginia Homicide Statutory Provisions

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### **1<sup>st</sup> and 2<sup>nd</sup> Degree Murder**

§61-2-1. First and second degree murder defined; allegations in indictment for homicide.

Murder by poison, lying in wait, imprisonment, starving, or by any willful, deliberate and premeditated killing, or in the commission of, or attempt to commit, arson, kidnapping, sexual assault, robbery, burglary, breaking and entering, escape from lawful custody, or a felony offense of manufacturing or delivering a controlled substance as defined in article four, chapter sixty-a of this code, is murder of the first degree. All other murder is murder of the second degree.

In an indictment for murder and manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient in every such indictment to charge that the defendant did feloniously, willfully, maliciously, deliberately and unlawfully slay, kill and murder the deceased.

§61-2-2. Penalty for murder of first degree.

Murder of the first degree shall be punished by confinement in the penitentiary for life.

§61-2-3. Penalty for murder of second degree.

Murder of the second degree shall be punished by a definite term of imprisonment in the penitentiary which is not less than ten nor more than forty years. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of ten years of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty-two, whichever is greater.

### **Voluntary and Involuntary Manslaughter**

§61-2-4. Voluntary manslaughter; penalty.

Voluntary manslaughter shall be punished by a definite term of imprisonment in the penitentiary which is not less than three nor more than fifteen years. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of three years of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty-two, whichever is greater.

§61-2-5. Involuntary manslaughter; penalty.

Involuntary manslaughter is a misdemeanor, and any person convicted thereof shall be confined in jail not to exceed one year, or fined not to exceed one thousand dollars, or both, in the discretion of the court.

## **Negligent Homicide**

§17C-5-1. Negligent homicide; penalties.

(a) When the death of any person ensues within one year as a proximate result of injury received by the driving of any vehicle anywhere in this state in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

(b) Any person convicted of negligent homicide shall be punished by imprisonment for not more than one year or by fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

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### **Associated Crimes**

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**Conspiracy:** §61-10-31 provides as follows:

It shall be unlawful for two or more persons to conspire (1) to commit any offense against the state or (2) to defraud the state, the state or any county board of education, or any county or municipality of the state, if, in either case, one or more of such persons does any act to effect the object of the conspiracy.

\* \* \* \* It shall not be a defense to any prosecution under this section thirty-one that the conduct charged or proven is also a crime under any other provision or provisions of this code or the common law.

Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a felony, or by conspiring to defraud the state, the state or any county board of education, or any county or municipality of the state, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than five years or by a fine of not more than ten thousand dollars, or, in the discretion of the court, by both such imprisonment and fine. Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a misdemeanor shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by confinement in the county jail for not more than one year or by a fine of not more than one thousand dollars, or, in the discretion of the court, by both such confinement and fine.