

State of Arkansas

76th General Assembly

First Extraordinary Session, 1987 As engrossed 6-4-87

SENATE BILL 35 35

By: Senator Gordon

As engrossed 6-3-87

"AN ACT TO AMEND SECTION 1502 OF ACT 280 OF 1975, AS AMENDED [ARK. STAT. 41-1502], TO INCLUDE KNOWINGLY CAUSING THE DEATH OF ANY PERSON FOURTEEN YEARS OF AGE OR YOUNGER IN THE DEFINITION OF MURDER IN THE FIRST DEGREE; AND FOR OTHER PURPOSES"

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1502 of Act 280 of 1975, as amended, the same being Arkansas Statute 41-1502, is hereby amended to read as follows:

"Section 1502. (1) A person commits murder in the first degree if:

(a) acting alone or with one or more other persons, he commits or attempts to commit a felony, and in the course of and in the furtherance of the felony, or in immediate flight therefrom, he or an accomplice causes the death of any person under circumstances manifesting extreme indifference to the value of human life; or

(b) with the premeditated and deliberated purpose of causing the death of another person, he causes the death of any person; or

(c) under circumstances manifesting cruel and malicious indifference to the value of human life, he knowingly causes the death of a person fourteen years of age or younger.

(2) It is an affirmative defense to any prosecution under subsection (1)

(a) for an offense in which the defendant was not the only participant that the defendant:

(a) did not commit the homicide act or in any way solicit, command, induce, procure, counsel, or aid its commission; and

(b) was not armed with a deadly weapon; and

(c) reasonably believed that no other participant was armed with a deadly weapon; and

(d) reasonably believed that no other participant intended to engage in

conduct which could result in death or serious physical injury.

(3) Murder in the first degree is a class Y felony."

SECTION 2. Emergency. It is hereby found and determined by the General Assembly that in the case of Ronnie_Midgett,_Sr._vs._State_of_Arkansas, CR 86-215, the Supreme Court of the State of Arkansas failed to find evidence of premeditation and deliberation in order to affirm a jury finding of first degree murder where a child's death was caused from a beating at the hands of his drunken father, and therefore reduced the father's conviction to second degree murder causing considerable confusion with reference to the application of Arkansas' first degree murder statute to child abuse cases resulting in death, the immediate passage of this Act is necessary in order to clearly establish Arkansas' first degree murder statute to be applicable in such cases. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Allen Gordon

