

Art. 1241. [1125] [695] [590] *If intent is to commit a felony.*—When one in the execution of or in attempting to execute an act made a felony by law shall kill another, though without an apparent intention to kill, the offense does not come within the definition of negligent homicide.

Art. 1242. [1126] [696] [591] *In attempt at misdemeanor.*—When the unlawful act attempted or executed is known as a misdemeanor, the punishment of negligent homicide committed in the execution of such unlawful act shall be imprisonment in jail not exceeding three years, or by fine not exceeding three thousand dollars.

Art. 1243. [1127] [697] [592] *Punishment.*—If the act intended is one for which an action would lie, but not an offense against the penal law, the homicide resulting therefrom is a misdemeanor, and may be punished by fine not exceeding one thousand dollars, and by imprisonment in jail not exceeding one year.

CHAPTER FIFTEEN.

MANSLAUGHTER.

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Art. 1244. [1128] [698] [593] **Manslaughter.** — Manslaughter is voluntary homicide committed under the immediate influence of sudden passion arising from an adequate cause, but neither excused nor justified by law.

Art. 1245. [1129] [699] [594] **"Under the influence of sudden passion."**—By the expression "under the immediate influence of sudden passion" is meant:

1. That the provocation must arise at the time of the commission of the offense, and that the passion is not the result of a former provocation.
2. The act must be directly caused by the passion arising out of the provocation. It is not enough that the mind is merely agitated by passion arising from some other provocation, or a provocation given by some person other than the party killed.
3. The passion intended is either of the emotions of the mind known as anger, rage, sudden resentment, or terror, rendering it incapable of cool reflection.

Art. 1246. [1130] [700] [595] **"Adequate cause"**.—By the expression "adequate cause" is meant such as would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper sufficient to render the mind incapable of cool reflection.

Art. 1247. [1131] [701] [596] **What are not adequate causes.**—Insulting words or gestures, or an assault and battery so slight as to show no intention to inflict pain or injury, or an injury to property unaccompanied by violence, are not adequate causes.

Art. 1248. [1132] [702] [597] **What are adequate causes.**—The following are deemed adequate causes:

1. An assault and battery by the deceased causing pain or bloodshed.
2. A serious personal conflict, in which great injury is inflicted by the person killed, by means of weapons or other instruments of violence, or by means of great superiority of personal strength, although the person killing was the aggressor, provided such aggression was not made with intent to bring on a conflict and for the purpose of killing.
3. Adultery of the person killed with the wife of the person killing provided the killing occur as soon as the fact of an illicit connection is discovered.
4. Insulting words or conduct of the person killed towards a female relation of the party killing.

Art. 1249. [1133] [703] [598] **Killing for insult to female.**—When it is sought to reduce the homicide to the grade of manslaughter by reason of insulting words or conduct towards a female relation, it must appear that the killing took place immediately upon the happening of the insulting conduct, or the uttering of the insulting words, or so soon thereafter as the party killing may meet with the party killed after having been informed of such insults.

Art. 1250. [1134] [704] [599] **General character of female.**—Where the defense spoken of in the preceding article is relied on, it shall be competent to prove the general character of the female insulted, in order to ascertain the extent of the provocation.

Art. 1251. [1135] [705] [600] **Jury to determine real cause.**—The jury shall be at liberty to determine whether, under all the circumstances, the insulting words or gestures were the real cause of the killing.

Art. 1252. [1136] [706] [601] **"Relation" includes whom.**—Any female under the permanent or temporary protection of

the accused at the time of the killing is included within the meaning of the term "relation."

Art. 1253. [1137] [707] [602] **Passion must actually exist.**—In order to reduce a voluntary homicide to the grade of manslaughter it is necessary not only that adequate cause existed to produce the state of mind referred to in article 1245, but also that such state of mind did actually exist at the time of the commission of the offense.

Art. 1254. [1138] [708] [603] **Provoking contest.**— Though a homicide may take place under circumstances showing no deliberation, yet if the party killing provoked a contest with the apparent intention of killing or doing serious bodily injury to the deceased, the offense does not come within the definition of manslaughter.

Art. 1255. [1139] [709] [604] **Punishment for manslaughter.**—Whoever is guilty of manslaughter shall be confined in the penitentiary not less than two nor more than five years.

CHAPTER SIXTEEN.

MURDER.

"Murder".....	Article 1256	Threats and character of de-	Article 1258
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Art. 1256. [1140] [710] [605] **"Murder."**—Whoever with malice aforethought shall kill any person within this State shall be guilty of murder. Murder is distinguishable from every other species of homicide by the absence of circumstances which reduce the offense to negligent homicide or manslaughter, or which excuse or justify the homicide. [O. C. 607, Act Feb. 12, 1858, Acts 1913, p. 238.]

Art. 1257. [1141] [711] [606] **Punishment for murder.**—The punishment for murder shall be death or confinement in the penitentiary for life or for any term of years not less than five. [Id.]

Art. 1258. [1143] [713] [608] **Threats and character of deceased.**—Where a defendant accused of murder seeks to justify himself on the ground of threats against his own life, he may be permitted to introduce evidence of the threats made, but the same shall not be regarded as affording a justification for the killing unless it be shown that at the time of the homicide the person killed by some act then done manifested an intention to