

SUBSTANTIVE OFFENSES OF SPECIAL NOTE/CONCERN

13.9. Voluntary Manslaughter as Principal Charge

The crime of voluntary manslaughter is defined by law as follows:

A person who knowingly or intentionally kills another [human being] [a fetus that has attained viability] while acting under sudden heat commits voluntary manslaughter, a Level 2 felony.

The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder to voluntary manslaughter. The State has conceded the existence of sudden heat by charging voluntary manslaughter instead of murder.

Before you may convict the Accused, the State must have proved each of the following beyond a reasonable doubt:

1. The Accused
2. knowingly or intentionally
3. killed
4. [name] [a fetus that had attained viability, which is defined as the ability of a fetus to live outside the mother's womb.]

If the State failed to prove each of elements 1 through 4 beyond a reasonable doubt, you must find the Accused not guilty of voluntary manslaughter, a Level 2 felony, charged in Count ____.

Authority: Ind. Pattern Instruction 3.0540, modified in conformance with basic elements instruction and Art. I, § 19 of the Ind. Const. I.C. 35-42-1-3.

Comments of Pattern Instruction Committee:

The term “fetus” is defined in Instruction No. 14.1680). The term “human being” is defined by law. (I.C. 35-31.5-2-160; Instruction No. 14.2140). The term “sudden heat” is defined in Instruction No. 14.3960.

Under *Brantley v. State*, 91 N.E.3d 566 (Ind. 2018), when voluntary manslaughter is prosecuted as a stand-alone charge, “sudden heat” is a mitigating factor and not an element of the offense. *Brantley* further states there must be *some* evidence of “sudden heat” for a defendant to be found guilty of voluntary manslaughter. Evidence of “sudden heat” may be found in either the State’s case or the defendant’s case. *Jackson v. State*, 709 N.E.2d 326, 328 (Ind. 1999). Murder and voluntary manslaughter both require a knowing killing; whether culpability is mitigated by sudden heat is best left for the fact-finder to determine. *Brantley*, 91 N.E.3d at 571 n.1.