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5 Replace lines 83 through 87 on pages 3 through 4 with the  
6 following:

7 of this section. ~~In the absence of a conviction of~~  
8 ~~felonious and intentional killing the court may determine~~  
9 ~~by a preponderance of evidence whether the killing was~~  
10 ~~felonious and intentional for purposes of this section.~~