

FELONY FLEEING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding the offense of murder.

Highlighted Provisions:

This bill:

► provides that an actor who recklessly causes the death of a peace officer or military servicemember in uniform while failing to respond to an officer's signal to stop is guilty of murder.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-203, as last amended by Laws of Utah 2009, Chapters 125 and 206

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-5-203** is amended to read:

76-5-203. Murder.

(1) As used in this section, "predicate offense" means:

(a) a clandestine drug lab violation under Section **58-37d-4** or **58-37d-5**;



28 (b) child abuse, under Subsection 76-5-109(2)(a), when the victim is younger than 18
29 years of age;

30 (c) kidnapping under Section 76-5-301;

31 (d) child kidnapping under Section 76-5-301.1;

32 (e) aggravated kidnapping under Section 76-5-302;

33 (f) rape of a child under Section 76-5-402.1;

34 (g) object rape of a child under Section 76-5-402.3;

35 (h) sodomy upon a child under Section 76-5-403.1;

36 (i) forcible sexual abuse under Section 76-5-404;

37 (j) sexual abuse of a child or aggravated sexual abuse of a child under Section
38 76-5-404.1;

39 (k) rape under Section 76-5-402;

40 (l) object rape under Section 76-5-402.2;

41 (m) forcible sodomy under Section 76-5-403;

42 (n) aggravated sexual assault under Section 76-5-405;

43 (o) arson under Section 76-6-102;

44 (p) aggravated arson under Section 76-6-103;

45 (q) burglary under Section 76-6-202;

46 (r) aggravated burglary under Section 76-6-203;

47 (s) robbery under Section 76-6-301;

48 (t) aggravated robbery under Section 76-6-302;

49 (u) escape or aggravated escape under Section 76-8-309; or

50 (v) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a
51 firearm or dangerous weapon.

52 (2) Criminal homicide constitutes murder if:

53 (a) the actor intentionally or knowingly causes the death of another;

54 (b) intending to cause serious bodily injury to another, the actor commits an act clearly
55 dangerous to human life that causes the death of another;

56 (c) acting under circumstances evidencing a depraved indifference to human life, the
57 actor knowingly engages in conduct which creates a grave risk of death to another and thereby
58 causes the death of another;

59 (d) (i) the actor is engaged in the commission, attempted commission, or immediate
60 flight from the commission or attempted commission of any predicate offense, or is a party to
61 the predicate offense;

62 (ii) a person other than a party as defined in Section 76-2-202 is killed in the course of
63 the commission, attempted commission, or immediate flight from the commission or attempted
64 commission of any predicate offense; and

65 (iii) the actor acted with the intent required as an element of the predicate offense;

66 (e) the actor recklessly causes the death of a peace officer or military servicemember in
67 uniform while in the commission or attempted commission of:

68 (i) an assault against a peace officer under Section 76-5-102.4;

69 (ii) interference with a peace officer while making a lawful arrest under Section
70 76-8-305 if the actor uses force against a peace officer; [or]

71 (iii) failure to respond to a peace officer's signal to stop as provided in Section
72 41-6a-210; or

73 [~~(iii)~~] (iv) an assault against a military servicemember in uniform under Section
74 76-5-102.4;

75 (f) commits a homicide which would be aggravated murder, but the offense is reduced
76 pursuant to Subsection 76-5-202(4); or

77 (g) the actor commits aggravated murder, but special mitigation is established under
78 Section 76-5-205.5.

79 (3) (a) Murder is a first degree felony.

80 (b) A person who is convicted of murder shall be sentenced to imprisonment for an
81 indeterminate term of not less than 15 years and which may be for life.

82 (4) (a) It is an affirmative defense to a charge of murder or attempted murder that the
83 defendant caused the death of another or attempted to cause the death of another under a
84 reasonable belief that the circumstances provided a legal justification or excuse for the conduct
85 although the conduct was not legally justifiable or excusable under the existing circumstances.

86 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
87 the viewpoint of a reasonable person under the then existing circumstances.

88 (c) This affirmative defense reduces charges only from:

89 (i) murder to manslaughter; and

90 (ii) attempted murder to attempted manslaughter.

91 (5) (a) Any predicate offense described in Subsection (1) that constitutes a separate
92 offense does not merge with the crime of murder.

93 (b) A person who is convicted of murder, based on a predicate offense described in
94 Subsection (1) that constitutes a separate offense, may also be convicted of, and punished for,
95 the separate offense.

Legislative Review Note
Office of Legislative Research and General Counsel