

Representative Paul Ray proposes the following substitute bill:

FELONY FLEEING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that anyone who recklessly causes the death of another person 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:

41-6a-210, as renumbered and amended by Laws of Utah 2005, Chapter 2

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 **41-6a-210** is amended to read:

41-6a-210. Failure to respond to officer's signal to stop -- Fleeing -- Causing



26 **property damage or bodily injury -- Suspension of driver's license -- Forfeiture of vehicle**
27 **-- Penalties.**

28 (1) (a) An operator who receives a visual or audible signal from a peace officer to bring
29 the vehicle to a stop may not:

30 (i) operate the vehicle in willful or wanton disregard of the signal so as to interfere with
31 or endanger the operation of any vehicle or person; or

32 (ii) attempt to flee or elude a peace officer by vehicle or other means.

33 (b) (i) A person who violates Subsection (1)(a) is guilty of a felony of the third degree.

34 (ii) The court shall, as part of any sentence under this Subsection (1), impose a fine of
35 not less than \$1,000.

36 (2) (a) An operator who violates Subsection (1) and while so doing causes [~~death or~~
37 serious bodily injury to another person, [~~under circumstances not amounting to murder or~~
38 ~~aggravated murder,~~] is guilty of a felony of the second degree.

39 (b) The court shall, as part of any sentence under this Subsection (2), impose a fine of
40 not less than \$5,000.

41 (3) (a) In addition to the penalty provided under this section or any other section, a
42 person who violates Subsection (1)(a) or (2)(a) shall have the person's driver license revoked
43 under Subsection [53-3-220\(1\)\(a\)\(ix\)](#) for a period of one year.

44 (b) (i) The court shall forward the report of the conviction to the division.

45 (ii) If the person is the holder of a driver license from another jurisdiction, the division
46 shall notify the appropriate officials in the licensing state.

47 Section 2. Section **76-5-203** is amended to read:

48 **76-5-203. Murder.**

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

50 (a) failure to respond to officer's signal to stop under 41-6a-210;

51 (b) a clandestine drug lab violation under Section [58-37d-4](#) or [58-37d-5](#);

52 [~~(b)~~] (c) child abuse, under Subsection [76-5-109\(2\)\(a\)](#), when the victim is younger than
53 18 years of age;

54 [~~(c)~~] (d) kidnapping under Section [76-5-301](#);

55 [~~(d)~~] (e) child kidnapping under Section [76-5-301.1](#);

56 [~~(e)~~] (f) aggravated kidnapping under Section [76-5-302](#);

- 57 [~~(f)~~] (g) rape of a child under Section 76-5-402.1;
- 58 [~~(g)~~] (h) object rape of a child under Section 76-5-402.3;
- 59 [~~(h)~~] (i) sodomy upon a child under Section 76-5-403.1;
- 60 [~~(i)~~] (j) forcible sexual abuse under Section 76-5-404;
- 61 [~~(j)~~] (k) sexual abuse of a child or aggravated sexual abuse of a child under Section
- 62 76-5-404.1;
- 63 [~~(k)~~] (l) rape under Section 76-5-402;
- 64 [~~(l)~~] (m) object rape under Section 76-5-402.2;
- 65 [~~(m)~~] (n) forcible sodomy under Section 76-5-403;
- 66 [~~(n)~~] (o) aggravated sexual assault under Section 76-5-405;
- 67 [~~(o)~~] (p) arson under Section 76-6-102;
- 68 [~~(p)~~] (q) aggravated arson under Section 76-6-103;
- 69 [~~(q)~~] (r) burglary under Section 76-6-202;
- 70 [~~(r)~~] (s) aggravated burglary under Section 76-6-203;
- 71 [~~(s)~~] (t) robbery under Section 76-6-301;
- 72 [~~(t)~~] (u) aggravated robbery under Section 76-6-302;
- 73 [~~(u)~~] (v) escape or aggravated escape under Section 76-8-309; or
- 74 [~~(v)~~] (w) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of
- 75 a firearm or dangerous weapon.
- 76 (2) Criminal homicide constitutes murder if:
- 77 (a) the actor intentionally or knowingly causes the death of another;
- 78 (b) intending to cause serious bodily injury to another, the actor commits an act clearly
- 79 dangerous to human life that causes the death of another;
- 80 (c) acting under circumstances evidencing a depraved indifference to human life, the
- 81 actor knowingly engages in conduct which creates a grave risk of death to another and thereby
- 82 causes the death of another;
- 83 (d) (i) the actor is engaged in the commission, attempted commission, or immediate
- 84 flight from the commission or attempted commission of any predicate offense, or is a party to
- 85 the predicate offense;
- 86 (ii) a person other than a party as defined in Section 76-2-202 is killed in the course of
- 87 the commission, attempted commission, or immediate flight from the commission or attempted

88 commission of any predicate offense; and

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

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

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

93 (ii) interference with a peace officer while making a lawful arrest under Section
94 76-8-305 if the actor uses force against a peace officer; [~~or~~]

95 (iii) failure to respond to an officer's signal to stop under 41-6a-210; or

96 [~~(iii)~~] (iv) an assault against a military servicemember in uniform under Section
97 76-5-102.4;

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

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

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

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

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

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

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

112 (i) murder to manslaughter; and

113 (ii) attempted murder to attempted manslaughter.

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

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