

76-4-203 Criminal solicitation -- Elements.

- (1) An actor commits criminal solicitation if, with intent that a felony be committed, he solicits, requests, commands, offers to hire, or importunes another person to engage in specific conduct that under the circumstances as the actor believes them to be would be a felony or would cause the other person to be a party to the commission of a felony.
- (2) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.
- (3) It is not a defense under this section that the person solicited by the actor:
 - (a) does not agree to act upon the solicitation;
 - (b) does not commit an overt act;
 - (c) does not engage in conduct constituting a substantial step toward the commission of any offense;
 - (d) is not criminally responsible for the felony solicited;
 - (e) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or
 - (f) is immune from prosecution.
- (4) It is not a defense under this section that the actor:
 - (a) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or
 - (b) fails to communicate with the person he solicits to commit an offense, if the intent of the actor's conduct was to effect the communication.
- (5) Nothing in this section prevents an actor who otherwise solicits, requests, commands, encourages, or intentionally aids another person to engage in conduct which constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the person solicited actually commits the offense.

Amended by Chapter 278, 2013 General Session