

- 28 (a) the homicide was committed by a person who is confined in a jail or other
- 29 correctional institution;
- 30 (b) the homicide was committed incident to one act, scheme, course of conduct, or
- 31 criminal episode during which two or more persons were killed, or during which the actor
- 32 attempted to kill one or more persons in addition to the victim who was killed;
- 33 (c) the actor knowingly created a great risk of death to a person other than the victim
- 34 and the actor;
- 35 (d) the homicide was committed incident to an act, scheme, course of conduct, or
- 36 criminal episode during which the actor committed or attempted to commit:
 - 37 (i) aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child,
 - 38 forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child,
 - 39 aggravated sexual abuse of a child, or child abuse as defined in Subsection 76-5-109(2)(a)[;
 - 40 ~~or~~];
 - 41 (ii) aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary,
 - 42 aggravated kidnapping, [~~or~~] kidnapping, or child kidnapping; or
 - 43 (iii) ~~H→~~ [~~human trafficking in violation of Section 76-5-308;~~] ~~←H~~ human trafficking
 - 43a of a child in
 - 44 violation of Section 76-5-308.5, or aggravated human trafficking in violation of H→ [Section
 - 45 76-5-310] Subsection 76-5-310(1) ←H ;
- 46 (e) the homicide was committed incident to one act, scheme, course of conduct, or
- 47 criminal episode during which the actor committed the crime of abuse or desecration of a dead
- 48 human body as defined in Subsection 76-9-704(2)(e);
- 49 (f) the homicide was committed for the purpose of avoiding or preventing an arrest of
- 50 the defendant or another by a peace officer acting under color of legal authority or for the
- 51 purpose of effecting the defendant's or another's escape from lawful custody;
- 52 (g) the homicide was committed for pecuniary gain;
- 53 (h) the defendant committed, or engaged or employed another person to commit the
- 54 homicide pursuant to an agreement or contract for remuneration or the promise of remuneration
- 55 for commission of the homicide;
 - 56 (i) the actor previously committed or was convicted of:
 - 57 (i) aggravated murder under this section;
 - 58 (ii) attempted aggravated murder under this section;

121 indifference to human life, causes the death of another incident to an act, scheme, course of
 122 conduct, or criminal episode during which the actor is a major participant in the commission or
 123 attempted commission of:

124 (a) child abuse, Subsection 76-5-109(2)(a);

125 (b) child kidnapping, Section 76-5-301.1;

126 ~~Ĥ→ [(c) human trafficking, Section 76-5-308;~~

127 ~~——— (d) (c) ←Ĥ human trafficking of a child, Section 76-5-308.5;~~

128 ~~Ĥ→ [(e)] (d) ←Ĥ aggravated human trafficking, Section 76-5-310;~~

129 ~~[(e)] Ĥ→ [(f)] (e) ←Ĥ rape of a child, Section 76-5-402.1;~~

130 ~~[(d)] Ĥ→ [(g)] (f) ←Ĥ object rape of a child, Section 76-5-402.3;~~

131 ~~[(e)] Ĥ→ [(h)] (g) ←Ĥ sodomy on a child, Section 76-5-403.1; or~~

132 ~~[(f)] Ĥ→ [(i)] (h) ←Ĥ sexual abuse or aggravated sexual abuse of a child,~~

132a Section 76-5-404.1.

133 (3) (a) If a notice of intent to seek the death penalty has been filed, aggravated murder
 134 is a capital felony.

135 (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder
 136 is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

137 (c) (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice
 138 of intent to seek the death penalty. The notice shall be served on the defendant or defense
 139 counsel and filed with the court.

140 (ii) Notice of intent to seek the death penalty may be served and filed more than 60
 141 days after the arraignment upon written stipulation of the parties or upon a finding by the court
 142 of good cause.

143 (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to
 144 noncapital first degree felony aggravated murder during the period in which the prosecutor may
 145 file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

146 (e) If the defendant was younger than 18 years of age at the time the offense was
 147 committed, aggravated murder is a noncapital first degree felony punishable as provided in
 148 Section 76-3-207.7.

149 (4) (a) It is an affirmative defense to a charge of aggravated murder or attempted
 150 aggravated murder that the defendant caused the death of another or attempted to cause the
 151 death of another under a reasonable belief that the circumstances provided a legal justification