

# HB0428S01 compared with HB0428

~~text~~ shows text that was in HB0428 but was deleted in HB0428S01.

Inserted text shows text that was not in HB0428 but was inserted into HB0428S01.

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Representative Paul Ray proposes the following substitute bill:

## FELONY FLEEING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

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

#### Highlighted Provisions:

This bill:

- ▶ provides that ~~an actor~~ anyone who recklessly causes the death of ~~a peace officer or military servicemember in uniform~~ 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:

## HB0428S01 compared with HB0428

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{1}~~2. Section 76-5-203 is amended to read:

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

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

## HB0428S01 compared with HB0428

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

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

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

~~(c)~~(d) kidnapping under Section 76-5-301;

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

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

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

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

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

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

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

~~(k)~~(l) rape under Section 76-5-402;

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

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

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

~~(o)~~(p) arson under Section 76-6-102;

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

~~(q)~~(r) burglary under Section 76-6-202;

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

~~(s)~~(t) robbery under Section 76-6-301;

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

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

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

(2) Criminal homicide constitutes murder if:

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

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

(c) acting under circumstances evidencing a depraved indifference to human life, the

## HB0428S01 compared with HB0428

actor knowingly engages in conduct which creates a grave risk of death to another and thereby causes the death of another;

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

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

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

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

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

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

(iii) failure to respond to ~~fa peace~~an officer's signal to stop ~~fas provided in Section~~under 41-6a-210; or

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

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

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

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

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

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

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

## **HB0428S01 compared with HB0428**

(c) This affirmative defense reduces charges only from:

- (i) murder to manslaughter; and
- (ii) attempted murder to attempted manslaughter.

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

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

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~