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Crimes; Fleeing from Peace Officers

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Crimes; justified homicide

NEV. REV. STAT. §200.— (new), §200.120 (amended).
AB 190 (DuBois); 1983 STAT. Ch 223

Existing law justifies homicide in self-defense or in the defense of habitation, property, or person against a person who manifestly intends or endeavors to (1) commit a felony against any person by violence or surprise or (2) enters the habitation of another for the purposes of assaulting or offering personal violence to any person therein when the entry is in a violent, riotous, or tumultuous manner.¹ Chapter 223 adds a provision that homicide will also be justified if the entry into the habitation is made in a surreptitious manner.² Furthermore, mayhem,³ battery,⁴ and assault⁵ will be justified⁶ under circumstances that now justify a homicide,⁷ as well as under those circumstances recognized at common law.⁸

1. NEV. REV. STAT. §200.120 (amended by 1983 Nev. Stat. c. 223, §1, at 518).

2. Compare NEV. REV. STAT. §200.120 (amended by 1983 Nev. Stat. c. 223, §§1, at 518) with 1912 Revised Laws of Nevada §6394, at 1834 (enacting NEV. REV. STAT. §200.120.)

3. See NEV. REV. STAT. §200.280 (defining mayhem as unlawfully depriving a human being of a member of his body, or disfiguring or rendering it useless).

4. *Id.* §200.481(1)(a) (defining battery as an unlawful use of force or violence upon the person of another).

5. *Id.* §200.471(1) (defining assault as an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another).

6. 1983 Nev. Stat. c. 223, §1, at 518.

7. See NEV. REV. STAT. §§200.120 (amended by 1983 Nev. Stat. c. 223, §1, at 518), 200.140, 200.150, 200.160 (providing the statutory situations under which homicide is justified); see also *id.* §200.130. A mere fear of any of the offenses under NEV. REV. STAT. section 200.120 shall not be sufficient to justify a killing. There must be the appearance that the circumstances were sufficient to excite the fears of a reasonable person, and that the party who killed truly acted under the influence of those fears and not in a spirit of revenge. *Id.*

8. See 6 AM. JUR. 2D *Assault and Battery* §§81-89 1963.

Crimes; fleeing from peace officers

NEV. REV. STAT. §§200.040, 200.070, 484.348, 484.377 (amended).
AB 409 (Price); 1983 STAT. Ch 409

Under existing law, drivers who willfully fail or refuse to stop, or who otherwise attempt to elude or flee from a peace officer¹ are guilty

1. NEV. REV. STAT. §169.125 (definition of peace officer).

of a misdemeanor.² Chapter 409 provides that if the failure to stop results in substantial bodily harm³ to a person, the driver is guilty of a gross misdemeanor,⁴ unless the injury occurs as a result of reckless driving.⁵

Existing law defines reckless driving as driving a vehicle with willful or wanton disregard for the safety of persons or property,⁶ or in an unauthorized speed contest on a public highway.⁷ Chapter 409 expands this definition⁸ to include the failure of a driver to stop the vehicle when a peace officer has given a visual or audible signal to stop.⁹

Additionally, Chapter 409 expands the definitions of manslaughter¹⁰ and involuntary manslaughter.¹¹ Under Chapter 409, manslaughter also includes the accidental death of another resulting from the failure to stop when given a signal to stop by a peace officer.¹² Moreover, involuntary manslaughter has been revised to include the death of a person resulting from a driver's failure to stop, unless the death was intentionally caused.¹³

It is unclear whether a death or injury resulting from a failure to stop will be charged as a gross misdemeanor or a felony. All injuries caused by the failure to stop will be punished according to the reckless driving statute imposing felony penalties.¹⁴ Chapter 409 does not distinguish when the failure to stop resulting in substantial bodily harm to another will be charged as a gross misdemeanor.¹⁵

2. *Id.* §484.348(1).

3. *Id.* §193.015 (definition of substantial bodily harm).

4. *Id.* §484.348(3) (amended by 1983 Nev. Stat. c. 409, §3, at 1014).

5. *Id.*; see also *id.* §484.377 (amended by 1983 Nev. Stat. c. 409, §4, at 1015). Felony penalties are imposed if the reckless driving proximately causes the death of or substantial bodily harm to any person other than the driver. *Id.* §484.377(2).

6. *Id.* §484.377(1).

7. *Id.*

8. Compare NEV. REV. STAT. §484.377(1) (amended by 1983 Nev. Stat. c. 409, §4, at 1015) with 1981 Nev. Stat. c. 445, §4, at 866 (amending NEV. REV. STAT. §484.377).

9. NEV. REV. STAT. §484.377(1)(b) (amended by 1983 Nev. Stat. c. 409, §4, at 1015); see also *id.*

10. Compare NEV. REV. STAT. §200.040(1)(b) (enacted by 1983 Nev. Stat. c. 409, §1, at 1014) with 1911 Nev. Rev. Laws c. 13, §122, at 1833 (enacting NEV. REV. STAT. §200.040).

11. Compare NEV. REV. STAT. §200.070(2) (enacted by 1983 Nev. Stat. c. 445, §2, at 1014) with 1981 Nev. Stat. c. 445, §8, at 867 (amending NEV. REV. STAT. §200.070).

12. NEV. REV. STAT. §200.040(1)(b) (amended by 1983 Nev. Stat. c. 409, §1, at 1014).

13. NEV. REV. STAT. §200.070(2) (amended by 1983 Nev. Stat. c. 409, §2, at 1014).

14. See NEV. REV. STAT. §484.377 (amended by 1983 Nev. Stat. c. 409, §4, at 1015).

15. See generally NEV. REV. STAT. §484.348 (amended by 1983 Nev. Stat. c. 409, §3, at 1014).