

76-5-407 Applicability of part -- "Penetration" or "touching" sufficient to constitute offense.

- (1) The provisions of this part do not apply to consensual conduct between persons married to each other.
- (2) In any prosecution for:
 - (a) the following offenses, any sexual penetration, however slight, is sufficient to constitute the relevant element of the offense:
 - (i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving sexual intercourse;
 - (ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Subsection 76-5-401.2, involving sexual intercourse; or
 - (iii) rape, a violation of Section 76-5-402; or
 - (b) the following offenses, any touching, however slight, is sufficient to constitute the relevant element of the offense:
 - (i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving acts of sodomy;
 - (ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving acts of sodomy;
 - (iii) sodomy, a violation of Subsection 76-5-403(1);
 - (iv) forcible sodomy, a violation of Subsection 76-5-403(2);
 - (v) rape of a child, a violation of Section 76-5-402.1; or
 - (vi) object rape of a child, a violation of Section 76-5-402.3.
- (3) In any prosecution for the following offenses, any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of the offense:
 - (a) sodomy on a child, a violation of Section 76-5-403.1; or
 - (b) sexual abuse of a child or aggravated sexual abuse of a child, a violation of Section 76-5-404.1.

Amended by Chapter 128, 2000 General Session