



LEGISLATIVE
RESEARCH &
GENERAL COUNSEL

Prostitution Offense Amendments

Committee Bill File for Law Enforcement and
Criminal Justice Interim Committee

Staff Presentation

Office of Legislative Research and General Counsel

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Notes on the Draft

- Breaks apart compound offenses
- Revises the names of offenses
- Moves and reorders contents of prostitution part
- Adds clarification language to offenses
- Provides new penalties for child actors



Breaking apart compound offenses

Old	New
76-10-1303. Patronizing a prostitute	• Patronizing a prostituted individual/adult • Patronizing a prostituted individual/child • Entering or remaining in a place of prostitution
76-10-1313. Sexual solicitation	• Sexual solicitation—offering to engage in sexual activity for compensation • Sexual solicitation—offering compensation to an adult for sexual activity • Sexual solicitation—offering compensation to a child for sexual activity

Revising names of offenses

Old	New
Prostitution	Engaging in Prostitution
Patronizing a prostitute	Patronizing a prostituted individual who is an adult Patronizing a prostituted individual who is a child Entering or remaining in a place of prostitution
Enhanced penalties—HIV positive offender	Engaging in prostitution or sexual solicitation as an HIV positive offender
Sexual solicitation	Sexual solicitation by an actor offering to engage in sexual activity for compensation Sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity Sexual solicitation by an actor offering compensation to a child in exchange for sexual activity

Moves & reorders contents of prostitution code

Chapter 10, Part 13: Prostitution	Contents changed as noted below.
76-10-1301. Definitions.	• Renumbered to 76-5d-101 • Subsections 76-10-1301(2) and (3), which apply only to the new Title 76, Chapter 5d, Part 2, are moved to 76-5d-201.
76-10-1302. Prostitution.	• Renumbered to 76-5d-202
76-10-1303. Patronizing a prostitute.	• Renumbered to 76-5d-203 • Embedded offense in Subsection 76-10-1303(5) is moved to 76-5d-204 • Embedded offense in Subsection 76-10-1303(1)(b) is moved to 76-5d-205
76-10-1304. Aiding prostitution.	• Renumbered to 76-5d-206
76-10-1305. Exploiting prostitution.	• Renumbered to 76-5d-207

Moves & reorders contents of prostitution code

76-10-1306. Aggravated exploitation of prostitution.	• Renumbered to 76-5d-208
76-10-1307. Local ordinance consistent with code provisions.	• Renumbered to 76-5d-102
76-10-1308. Prosecution.	• Section repealed • Provisions of section placed in 76-5d-202 and -206
76-10-1309. Enhanced penalties -- HIV positive offender.	• Renumbered to 76-5d-211
76-10-1310. Definitions.	• Section repealed • Definitions from this section added to 76-5d-101 which contains all definitions for the chapter covering prostitution

Moves & reorders contents of prostitution code

76-10-1311. Mandatory testing - - Retention of offender medical file -- Civil liability.	• Renumbered to 76-5d-103
76-10-1312. Notice to offender of HIV positive test results.	• Renumbered to 76-5d-104
76-10-1313. Sexual solicitation - - Penalty.	• Renumbered to 76-5d-209 • Additional offenses at 76-5d-210 and 76-5d-211
76-10-1314. Examination of testing procedures and results in legal proceedings.	• Renumbered to 76-5d-105
76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.	• Renumbered to 76-5d-106 • Subsection 76-10-1315(4) is moved to Sections 76-5d-101 and 76-5d-209 as an element of the offenses found in those sections

Adds clarification language to offenses

1112 ~~[76-10-1302]~~ **76-5d-202 . Engaging in prostitution.**

1113 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1114 ~~[(1)]~~ (2) ~~An actor[, except for a child under Section 76-10-1315, is guilty of]~~ commits the
1115 offense of engaging in prostitution if the actor:

1116 (a) [-] is 18 years old or older; and

1117 (b) engages in sexual activity with another individual in exchange for receiving a fee, or
1118 the functional equivalent of a fee.



Adds clarification language to offenses

1369 ~~[76-10-1313]~~ 76-5d-209 . Sexual solicitation by an actor offering to engage in sexual activity
1370 **for compensation.**

1371 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1372 ~~[(1)]~~ (2) An ~~[individual except for a child under Section 76-10-1315 is guilty of]~~ actor
1373 commits the offense of sexual solicitation by an actor offering to engage in sexual
1374 activity for compensation if the ~~[individual]~~ actor:

1375 (a) is 18 years old or older; and

1376 ~~[(a)]~~ (b)(i) offers or agrees to commit any sexual activity with another individual [for]
1377 in exchange for receiving a fee, or the functional equivalent of a fee;

1378 ~~[(e)]~~ (ii)(A) takes steps to arrange a meeting with another individual through any
1379 form of advertising or agreement to meet[~~-, and~~];

1380 (B) [-] meets the individual at an arranged place; and

1381 (C) [-] arranged and met the individual for the purpose of being hired to engage in
1382 sexual activity in exchange for receiving a fee, or the functional equivalent of a
1383 fee;

Provides new penalties for child actors (patronizing and solicitation)

1480 **76-5d-211 . Sexual solicitation by an actor offering compensation to a child in**
1481 **exchange for sexual activity.**

1482 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1483 (2) Under circumstances not amounting to an offense described in Subsection (4), an actor
1484 commits the offense of sexual solicitation by an actor offering compensation to a child
1485 in exchange for sexual activity if the actor:

1486 (a) is 12 years old or older; and

1487 (b)(i) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee,
1488 to a child to hire the child to commit any sexual activity; or

Provides new penalties for child actors

1496 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1497 degree felony.

1498 (b) If the actor is under 18 years old at the time of the offense, a violation of Subsection
1499 (2) is:

1500 (i) a third degree felony if:

1501 (A) the actor is 17 years old and the child is 13 years old or younger; or

1502 (B) the actor is 16 years old and the child is 12 years old or younger;

1503 (ii) a class A misdemeanor if:

1504 (A) the actor is 17 years old and the child is 14 years old;

1505 (B) the actor is 16 years old and the child is 13 years old;

1506 (C) the actor is 15 years old and the child is 12 years old or younger; or

1507 (D) the actor is 14 years old and the child is 11 years old or younger;

Provides new penalties for child actors

1508 (iii) a class B misdemeanor if:

1509 (A) the actor is 17 years old and the child is 15 years old;

1510 (B) the actor is 16 years old and the child is 14 years old;

1511 (C) the actor is 15 years old and the child is 13 years old;

1512 (D) the actor is 14 years old and the child is 12 years old;

1513 (E) the actor is 13 years old and the child is 11 years old or younger; or

1514 (F) the actor is 12 years old and the child is 10 years old or younger; or

1515 (iv) a class C misdemeanor if:

1516 (A) the actor is 17 years old and the child is 16 or 17 years old;

1517 (B) the actor is 16 years old and the child is 15 years old or older;

1518 (C) the actor is 15 years old and the child is 14 years old or older;

1519 (D) the actor is 14 years old and the child is 13 years old or older;

1520 (E) the actor is 13 years old and the child is 12 years old or older; or

1521 (F) the actor is 12 years old and the child is 11 years old or older.

Provides new penalties for child actors

1508 (iii) a class B misdemeanor if:

1509 (A) the actor is 17 years old and the child is 15 years old;

1510 (B) the actor is 16 years old and the child is 14 years old;

1511 (C) the actor is 15 years old and the child is 13 years old;

1512 (D) the actor is 14 years old and the child is 12 years old;

1513 (E) the actor is 13 years old and the child is 11 years old or younger; or

1514 (F) the actor is 12 years old and the child is 10 years old or younger; or

1515 (iv) a class C misdemeanor if:

1516 (A) the actor is 17 years old and the child is 16 or 17 years old;

1517 (B) the actor is 16 years old and the child is 15 years old or older;

1518 (C) the actor is 15 years old and the child is 14 years old or older;

1519 (D) the actor is 14 years old and the child is 13 years old or older;

1520 (E) the actor is 13 years old and the child is 12 years old or older; or

1521 (F) the actor is 12 years old and the child is 11 years old or older.

Provides new penalties for child actors

Penalties based on Section 76-5-401.3. Unlawful adolescent sexual activity:

- (3) (a) A violation of Subsection (2)(a) is a:
- (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
 - (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
 - (v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;
 - (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and
 - (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

Penalty for soliciting an adult is a class A misdemeanor





Questions?