

Part 2 Jurisdiction and Venue

76-1-201 Jurisdiction of offenses.

- (1) A person is subject to prosecution in this state for an offense which he commits, while either within or outside the state, by his own conduct or that of another for which he is legally accountable, if:
 - (a) the offense is committed either wholly or partly within the state;
 - (b) the conduct outside the state constitutes an attempt to commit an offense within the state;
 - (c) the conduct outside the state constitutes a conspiracy to commit an offense within the state and an act in furtherance of the conspiracy occurs in the state; or
 - (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense under the laws of both this state and the other jurisdiction.
- (2) An offense is committed partly within this state if either the conduct which is any element of the offense, or the result which is an element, occurs within this state.
- (3) In homicide offenses, the "result" is either the physical contact which causes death or the death itself.
 - (a) If the body of a homicide victim is found within the state, the death shall be presumed to have occurred within the state.
 - (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the defendant proves by clear and convincing evidence that:
 - (i) the result of the homicide did not occur in this state; and
 - (ii) the defendant did not engage in any conduct in this state which is any element of the offense.
- (4)
 - (a) An offense which is based on an omission to perform a duty imposed by the law of this state is committed within the state regardless of the location of the offender at the time of the omission.
 - (b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender registration, the offense is considered to be committed:
 - (i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or
 - (ii) at the location of the offender at the time the offender is apprehended.
- (5)
 - (a) If no jurisdictional issue is raised, the pleadings are sufficient to establish jurisdiction.
 - (b) The defendant may challenge jurisdiction by filing a motion before trial stating which facts exist that deprive the state of jurisdiction.
 - (c) The burden is upon the state to initially establish jurisdiction over the offense by a preponderance of the evidence by showing under the provisions of Subsections (1) through (4) that the offense was committed either wholly or partly within the borders of the state.
 - (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the defendant claims that the state is deprived of jurisdiction or may not exercise jurisdiction, the burden is upon the defendant to prove by a preponderance of the evidence:
 - (i) any facts claimed; and
 - (ii) why those facts deprive the state of jurisdiction.
- (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising jurisdiction include the fact that the:

- (a) defendant is serving in a position that is entitled to diplomatic immunity from prosecution and that the defendant's country has not waived that diplomatic immunity;
 - (b) defendant is a member of the armed forces of another country and that the crime that he is alleged to have committed is one that due to an international agreement, such as a status of forces agreement between his country and the United States, cedes the exercise of jurisdiction over him for that offense to his country;
 - (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101, and that the Indian tribe has a legal status with the United States or the state that vests jurisdiction in either tribal or federal courts for certain offenses committed within the exterior boundaries of a tribal reservation, and that the facts establish that the crime is one that vests jurisdiction in tribal or federal court; or
 - (d) offense occurred on land that is exclusively within federal jurisdiction.
- (7)
- (a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud Act, involves the use of personal identifying information which is uniquely personal to the consumer or business victim of that identity fraud and which information is considered to be in lawful possession of the consumer or business victim wherever the consumer or business victim currently resides or is found.
 - (b) For purposes of Subsection (1)(a), an offense which is based on a violation of Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state, regardless of the location of the offender at the time of the offense, if the victim of the identity fraud resides or is found in this state.
- (8) The judge shall determine jurisdiction.

Amended by Chapter 105, 2014 General Session

76-1-202 Venue of actions.

- (1) Criminal actions shall be tried in the county, district, or precinct where the offense is alleged to have been committed. In determining the proper place of trial, the following provisions shall apply:
- (a) If the commission of an offense commenced outside the state is consummated within this state, the offender shall be tried in the county where the offense is consummated.
 - (b) When conduct constituting elements of an offense or results that constitute elements, whether the conduct or result constituting elements is in itself unlawful, shall occur in two or more counties, trial of the offense may be held in any of the counties concerned.
 - (c) If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be held in either county.
 - (d) If a cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county.
 - (e) A person who commits an inchoate offense may be tried in any county in which any act that is an element of the offense, including the agreement in conspiracy, is committed.
 - (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.
 - (g) When an offense is committed within this state and it cannot be readily determined in which county or district the offense occurred, the following provisions shall be applicable:

- (i) When an offense is committed upon any railroad car, vehicle, watercraft, or aircraft passing within this state, the offender may be tried in any county through which such railroad car, vehicle, watercraft, or aircraft has passed.
- (ii) When an offense is committed on any body of water bordering on or within this state, the offender may be tried in any county adjacent to such body of water. The words "body of water" shall include but not be limited to any stream, river, lake, or reservoir, whether natural or man-made.
- (iii) A person who commits theft may be tried in any county in which he exerts control over the property affected.
- (iv) If an offense is committed on or near the boundary of two or more counties, trial of the offense may be held in any of such counties.
- (v) For any other offense, trial may be held in the county in which the defendant resides, or, if he has no fixed residence, in the county in which he is apprehended or to which he is extradited.
- (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act, may be tried in the county:
 - (i) where the victim's personal identifying information was obtained;
 - (ii) where the defendant used or attempted to use the personally identifying information;
 - (iii) where the victim of the identity fraud resides or is found; or
 - (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any county where the victim's identity was used or obtained, or where the victim resides or is found.
- (i) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender registration, the offense is considered to be committed:
 - (i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or
 - (ii) at the location of the offender at the time the offender is apprehended.
- (2) All objections of improper place of trial are waived by a defendant unless made before trial.

Amended by Chapter 105, 2014 General Session