

Effective 5/4/2022

76-3-203.6 Enhanced penalty for certain offenses committed by prisoner.

- (1) As used in this section, "serving a sentence" means a prisoner is sentenced and committed to the custody of the Department of Corrections, the sentence has not been terminated or voided, and the prisoner:
 - (a) has not been paroled; or
 - (b) is in custody after arrest for a parole violation.
- (2) If the trier of fact finds beyond a reasonable doubt that a prisoner serving a sentence for a capital felony or a first degree felony commits any offense listed in Subsection (5), the offense is a first degree felony and the court shall sentence the defendant to life in prison without parole.
- (3) Notwithstanding Subsection (2), the court may sentence the defendant to an indeterminate prison term of not less than 20 years and that may be for life if the court finds that the interests of justice would best be served and states the specific circumstances justifying the disposition on the record.
- (4) Subsection (2) does not apply if the prisoner is younger than 18 years old at the time the offense listed in Subsection (5) is committed and is sentenced on or after May 10, 2016.
- (5) Offenses referred to in Subsection (2) are:
 - (a) aggravated assault by a prisoner, Section 76-5-103.5;
 - (b) mayhem, Section 76-5-105;
 - (c) attempted murder, Section 76-5-203;
 - (d) kidnapping, Section 76-5-301;
 - (e) child kidnapping, Section 76-5-301.1;
 - (f) aggravated kidnapping, Section 76-5-302;
 - (g) rape, Section 76-5-402;
 - (h) rape of a child, Section 76-5-402.1;
 - (i) object rape, Section 76-5-402.2;
 - (j) object rape of a child, Section 76-5-402.3;
 - (k) forcible sodomy, Section 76-5-403;
 - (l) sodomy on a child, Section 76-5-403.1;
 - (m) aggravated sexual abuse of a child, Section 76-5-404.3;
 - (n) aggravated sexual assault, Section 76-5-405;
 - (o) aggravated arson, Section 76-6-103;
 - (p) aggravated burglary, Section 76-6-203; and
 - (q) aggravated robbery, Section 76-6-302.
- (6) The sentencing enhancement described in this section does not apply if:
 - (a) the offense for which the person is being sentenced is:
 - (i) a grievous sexual offense;
 - (ii) child kidnapping, Section 76-5-301.1; or
 - (iii) aggravated kidnapping, Section 76-5-302; and
 - (b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Amended by Chapter 181, 2022 General Session