

**76-3-406 Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.**

Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation shall not be granted, the execution or imposition of sentence shall not be suspended, the court shall not enter a judgment for a lower category of offense, and hospitalization shall not be ordered, the effect of which would in any way shorten the prison sentence for any person who commits a capital felony or a first degree felony involving:

- (1) Section 76-5-202, aggravated murder;
- (2) Section 76-5-203, murder;
- (3) Section 76-5-301.1, child kidnaping;
- (4) Section 76-5-302, aggravated kidnaping;
- (5) Section 76-5-402, rape, if the person is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);
- (6) Section 76-5-402.1, rape of a child;
- (7) Section 76-5-402.2, object rape, if the person is sentenced under Subsection 76-5-402.2(1)(b), (1)(c), or (2);
- (8) Section 76-5-402.3, object rape of a child;
- (9) Section 76-5-403, forcible sodomy, if the person is sentenced under Subsection 76-5-403(4)(b), (4)(c), or (5);
- (10) Section 76-5-403.1, sodomy on a child;
- (11) Section 76-5-404, forcible sexual abuse, if the person is sentenced under Subsection 76-5-404(2)(b) or (3);
- (12) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
- (13) Section 76-5-405, aggravated sexual assault; or
- (14) any attempt to commit a felony listed in Subsection (6), (8), or (10).

Amended by Chapter 366, 2011 General Session