

Effective 7/1/2021

Superseded 9/1/2021

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

- (1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:
 - (a) Section 76-5-202, aggravated murder;
 - (b) Section 76-5-203, murder;
 - (c) Section 76-5-301.1, child kidnaping;
 - (d) Section 76-5-302, aggravated kidnaping;
 - (e) Section 76-5-402, rape, if the individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);
 - (f) Section 76-5-402.1, rape of a child;
 - (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection 76-5-402.2(1)(b), (1)(c), or (2);
 - (h) Section 76-5-402.3, object rape of a child;
 - (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection 76-5-403(3)(b), (3)(c), or (4);
 - (j) Section 76-5-403.1, sodomy on a child;
 - (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under Subsection 76-5-404(2)(b) or (3);
 - (l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
 - (m) Section 76-5-405, aggravated sexual assault; or
 - (n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
- (2) Except for an offense before the district court in accordance with Section 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court finds that the defendant:
 - (a) was under 18 years old at the time of the offense; and
 - (b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.