

Part 1 Attempt

76-4-101 Attempt -- Elements of offense.

- (1) For purposes of this part, a person is guilty of an attempt to commit a crime if he:
 - (a) engages in conduct constituting a substantial step toward commission of the crime; and
 - (b)
 - (i) intends to commit the crime; or
 - (ii) when causing a particular result is an element of the crime, he acts with an awareness that his conduct is reasonably certain to cause that result.
- (2) For purposes of this part, conduct constitutes a substantial step if it strongly corroborates the actor's mental state as defined in Subsection (1)(b).
- (3) A defense to the offense of attempt does not arise:
 - (a) because the offense attempted was actually committed; or
 - (b) due to factual or legal impossibility if the offense could have been committed if the attendant circumstances had been as the actor believed them to be.

Amended by Chapter 154, 2004 General Session

76-4-102 Attempt -- Classification of offenses.

- (1) Criminal attempt to commit:
 - (a)
 - (i) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;
 - (ii) except as provided in Subsection (2), an attempt to commit aggravated murder, Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment for an indeterminate term of not fewer than 15 years and which may be for life;
 - (b) except as provided in Subsection (1)(c) or (d), a first degree felony is a second degree felony;
 - (c) any of the following offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:
 - (i) murder, Subsection 76-5-203(2)(a);
 - (ii) child kidnapping, Section 76-5-301.1; or
 - (iii) except as provided in Subsection (1)(d), any of the felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, that are first degree felonies;
 - (d) except as provided in Subsection (3), any of the following offenses is a first degree felony, punishable by a term of imprisonment of not less than 15 years and which may be for life:
 - (i) rape of a child, Section 76-5-402.1;
 - (ii) object rape of a child, Section 76-5-402.3; or
 - (iii) sodomy on a child, Section 76-5-403.1;
 - (e) a second degree felony is a third degree felony;
 - (f) a third degree felony is a class A misdemeanor;
 - (g) a class A misdemeanor is a class B misdemeanor;
 - (h) a class B misdemeanor is a class C misdemeanor; and
 - (i) a class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.
- (2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court states the

reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

- (a) 10 years and which may be for life; or
 - (b) six years and which may be for life.
- (3) If, when imposing a sentence under Subsection (1)(d), a court finds that a lesser term than the term described in Subsection (1)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
- (a) 10 years and which may be for life;
 - (b) six years and which may be for life; or
 - (c) three years and which may be for life.

Amended by Chapter 93, 2013 General Session