

Effective 5/1/2024

Superseded 5/7/2025

76-4-203 Criminal solicitation of an adult.

- (1)
 - (a) As used in this section:
 - (i) "Adult" means an individual who is 18 years old or older.
 - (ii) "Solicit" means to ask, command, encourage, importune, offer to hire, or request.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits criminal solicitation of an adult if, with the intent that a felony offense be committed, the actor solicits an adult to engage in specific conduct that, under the circumstances as the actor believes the circumstances to be, would be a felony offense or would cause the adult to be a party to the commission of a felony offense.
- (3) A violation of Subsection (2) where the actor solicits the adult to commit:
 - (a) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;
 - (b) except as provided in Subsection (3)(c) or (d), a first degree felony is a second degree felony;
 - (c) any of the following felony 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, as described in Subsection 76-5-203(2)(a);
 - (ii) child kidnapping, as described in Section 76-5-301.1; or
 - (iii) except as provided in Subsection (3)(d), an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, that is a first degree felony;
 - (d) except as provided in Subsection (4), any of the following felony 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; and
 - (f) a third degree felony is a class A misdemeanor.
- (4) If a court finds that a lesser term than the term described in Subsection (3)(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.
- (5) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.
- (6) It is not a defense to a violation of this section that:
 - (a) the adult solicited by the actor:
 - (i) does not agree to act upon the solicitation;
 - (ii) does not commit an overt act;
 - (iii) does not engage in conduct constituting a substantial step toward the commission of any offense;
 - (iv) is not criminally responsible for the felony offense solicited;
 - (v) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or
 - (vi) is immune from prosecution; or

- (b) the actor:
 - (i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or
 - (ii) fails to communicate with the adult that the actor solicits to commit an offense if the intent of the actor's conduct was to effect the communication.
- (7) Nothing in this section prevents an actor who otherwise solicits an adult to engage, or intentionally aids an adult in engaging, in conduct that constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the adult actually commits the offense.