

**Effective 5/3/2023**

**Renumbered 5/7/2025**

**76-4-401 Enticing a minor -- Elements -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Minor" means an individual who is under 18 years old.
    - (ii) "Electronic communication" means the same as that term is defined in Section 76-9-201.
    - (iii) "Electronic communication device" means the same as that term is defined in Section 76-9-201.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits enticement of a minor if the actor knowingly:
  - (a) uses an electronic communication or an electronic communication device to:
    - (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law; or
    - (ii)
      - (A) initiate contact with a minor or a person the actor believes to be a minor; and
      - (B) subsequent to the action described in Subsection (2)(a)(ii)(A), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in sexual activity that is a violation of state criminal law; or
  - (b) develops a relationship of trust with the minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice the minor to engage in sexual activity that is a violation of state criminal law.
- (3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.
- (4) Enticement of a minor under Subsection (2) is punishable as follows:
  - (a) enticement to engage in sexual activity that would be a first degree felony for the actor is a:
    - (i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and
    - (ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);
  - (b) enticement to engage in sexual activity that would be a second degree felony for the actor is a third degree felony;
  - (c) enticement to engage in sexual activity that would be a third degree felony for the actor is a class A misdemeanor;
  - (d) enticement to engage in sexual activity that would be a class A misdemeanor for the actor is a class B misdemeanor; and
  - (e) enticement to engage in sexual activity that would be a class B misdemeanor for the actor is a class C misdemeanor.
- (5)
  - (a) When an actor who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:
    - (i) grant probation;
    - (ii) suspend the execution or imposition of the sentence;
    - (iii) enter a judgment for a lower category of offense; or

- (iv) order hospitalization.
- (b) The sections referred to in Subsection (5)(a) are:
  - (i) Section 76-4-401, enticing a minor;
  - (ii) Section 76-5-301.1, child kidnapping;
  - (iii) Section 76-5-402, rape;
  - (iv) Section 76-5-402.1, rape of a child;
  - (v) Section 76-5-402.2, object rape;
  - (vi) Section 76-5-402.3, object rape of a child;
  - (vii) Section 76-5-403, forcible sodomy;
  - (viii) Section 76-5-403.1, sodomy on a child;
  - (ix) Section 76-5-404, forcible sexual abuse;
  - (x) Section 76-5-404.1, sexual abuse of a child and Section 76-5-404.3, aggravated sexual abuse of a child;
  - (xi) Section 76-5-405, aggravated sexual assault;
  - (xii) Section 76-5-308.5, human trafficking of a child;
  - (xiii) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through (xii); or
  - (xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xiii).