

Part 4

Sexual Offenses

76-5-401 Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.

- (1)
 - (a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if the actor:
 - (i) has sexual intercourse with the minor;
 - (ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth or anus of another individual; or
 - (iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.
 - (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).
- (3)
 - (a) A violation of Subsection (2) is a third degree felony.
 - (b) Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a class B misdemeanor if the defendant establishes by a preponderance of the evidence the mitigating factor that:
 - (i) the defendant is less than four years older than the minor at the time the sexual activity occurred; or
 - (ii) the defendant is 18 years old and enrolled in high school at the time the sexual activity occurred.
 - (c) Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2)(a) are:
 - (a) rape, in violation of Section 76-5-402;
 - (b) object rape, in violation of Section 76-5-402.2;
 - (c) forcible sodomy, in violation of Section 76-5-403;
 - (d) aggravated sexual assault, in violation of Section 76-5-405; or
 - (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Amended by Chapter 291, 2025 General Session

76-5-401.1 Sexual abuse of a minor.

- (1)
 - (a) As used in this section:
 - (i) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.

- (ii) "Indecent liberties" means:
 - (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;
 - (B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;
 - (C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or
 - (D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.
- (iii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:
 - (i) is four years or more older than the minor; and
 - (ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:
 - (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
 - (B) touches the female breast of a minor; or
 - (C) otherwise takes indecent liberties with the minor.
 - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2)(a) is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2)(a) are:
 - (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
 - (b) rape, in violation of Section 76-5-402;
 - (c) object rape, in violation of Section 76-5-402.2;
 - (d) forcible sodomy, in violation of Section 76-5-403;
 - (e) aggravated sexual assault, in violation of Section 76-5-405; or
 - (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 291, 2025 General Session

Amended by Chapter 320, 2025 General Session

76-5-401.2 Unlawful sexual conduct with a 16- or 17-year-old -- Penalties -- Limitations.

- (1)
 - (a) As used in this section:
 - (i) "Female breast" means the same as that term is defined in Section 76-5-401.1.
 - (ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (iii) "Minor" means an individual who is 16 years old or older, but younger than 18 years old, at the time the sexual conduct described in Subsection (2) occurred.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual conduct with a minor if the actor:
 - (i)

- (A) is seven or more years older but less than 10 years older than the minor at the time of the sexual conduct;
- (B) engages in any conduct listed in Subsection (2)(b); and
- (C) knew or reasonably should have known the age of the minor; or
- (ii)
 - (A) is 10 or more years older than the minor at the time of the sexual conduct; and
 - (B) engages in any conduct listed in Subsection (2)(b).
- (b) As used in Subsection (2)(a), "sexual conduct" refers to when the actor:
 - (i) has sexual intercourse with the minor;
 - (ii) engages in any sexual act with the minor involving the genitals of one individual and the mouth or anus of another individual;
 - (iii)
 - (A) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body; and
 - (B) causes the penetration with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual; or
 - (iv) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:
 - (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
 - (B) touches the female breast of a minor; or
 - (C) otherwise takes indecent liberties with the minor.
- (c)
 - (i) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
 - (ii) Any penetration, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(i).
 - (iii) Any touching, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(ii).
- (3)
 - (a) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.
 - (b) A violation of Subsection (2)(b)(iv) is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2)(a) are:
 - (a) rape, in violation of Section 76-5-402;
 - (b) object rape, in violation of Section 76-5-402.2;
 - (c) forcible sodomy, in violation of Section 76-5-403;
 - (d) forcible sexual abuse, in violation of Section 76-5-404;
 - (e) aggravated sexual assault, in violation of Section 76-5-405; or
 - (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

76-5-401.3 Unlawful adolescent sexual activity -- Penalties -- Limitations.

- (1)
 - (a) As used in this section, "adolescent" means an individual who is 12 years old or older but younger than 18 years old.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.

- (2) Under circumstances not amounting to an offense listed in Subsection (5), an actor commits unlawful sexual activity if:
- (a)
 - (i) the actor is 12 years old or older but younger than 18 years old;
 - (ii) the actor engages in sexual activity with an adolescent;
 - (iii) the actor is not the biological sibling of the adolescent; and
 - (iv) both the actor and the adolescent mutually agree to the sexual activity; or
 - (b)
 - (i) the actor engages in sexual activity with an adolescent who is 13 years old;
 - (ii) the actor is 18 years old and enrolled in high school at the time that the sexual activity occurred;
 - (iii) the actor is not the biological sibling of the adolescent; and
 - (iv) both the actor and the adolescent mutually agree to the sexual activity.
- (3)
- (a) A violation of Subsection (2)(a) is a:
 - (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
 - (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
 - (v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;
 - (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and
 - (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.
 - (b) A violation of Subsection (2)(b) is a third degree felony.
- (4) The actor and the adolescent do not mutually agree to the sexual activity under Subsection (2) if:
- (a) the adolescent expresses lack of agreement to the sexual activity through words or conduct;
 - (b) the actor overcomes the adolescent's will through:
 - (i) threats to the adolescent or any other individual;
 - (ii) force;
 - (iii) coercion; or
 - (iv) enticement;
 - (c) the actor is able to overcome the adolescent through concealment or by the element of surprise;
 - (d) the actor knows, or reasonably should know, that the adolescent has a mental disease or defect, which renders the adolescent unable to:
 - (i) appraise the nature of the act;
 - (ii) resist the act;
 - (iii) understand the possible consequences to the adolescent's health or safety; or
 - (iv) appraise the nature of the relationship between the actor and the adolescent;

- (e) the actor knows that the adolescent participates in the sexual activity because the adolescent erroneously believes that the actor is someone else; or
 - (f) the actor intentionally impaired the power of the adolescent to appraise or control the adolescent's conduct by administering any substance without the adolescent's knowledge.
- (5) The offenses referred to in Subsection (2) are:
- (a) rape under Section 76-5-402;
 - (b) object rape under Section 76-5-402.2;
 - (c) forcible sodomy under Section 76-5-403;
 - (d) aggravated sexual assault under Section 76-5-405;
 - (e) incest under Section 76-7-102; or
 - (f) an attempt to commit an offense listed in Subsections (5)(a) through (e).
- (6) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.
- (7) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

Amended by Chapter 291, 2025 General Session

76-5-402 Rape.

- (1)
- (a) As used in this section, "incapacitated individual" means:
 - (i) an individual 14 years old or older with:
 - (A) an intellectual disease or defect;
 - (B) a physical disease or defect;
 - (C) a neurological disease or defect; or
 - (D) a cognitive disease or defect; and
 - (ii) as a result of the disease or defect described in Subsection (1)(a)(i), the individual is unable to meet two or more of the following requirements:
 - (A) appraise the nature of an act of sexual intercourse;
 - (B) resist or escape an act of sexual intercourse; or
 - (C) report an act of sexual intercourse committed against the individual.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits rape if the actor has sexual intercourse with another individual without the individual's consent.
 - (b) Any sexual penetration, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
 - (c) This section applies whether or not the actor is married to the individual.
- (3) A violation of Subsection (2) is a felony of the first degree, punishable by a term of imprisonment of:
- (a) except as provided in Subsection (3)(b), (c), or (d), not less than five years and which may be for life;
 - (b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;

- (c) except as provided in Subsection (3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:
 - (i) during the course of the commission of the rape the defendant caused serious bodily injury to the victim; or
 - (ii) at the time of the commission of the rape, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or
- (d) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.
- (4)
 - (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) 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 six years and which may be for life.
 - (b) If, when imposing a sentence under Subsection (3)(c), a court finds that a lesser term than the term described in Subsection (3)(c) 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:
 - (i) 10 years and which may be for life; or
 - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply when a defendant is sentenced under Subsection (3)(a) or (d).
- (6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 412, 2025 General Session

76-5-402.1 Rape of a child -- Penalties.

- (1)
 - (a) As used in this section:
 - (i) "Child" means an individual who is younger than 14 years old.
 - (ii) "Sexual intercourse" means:
 - (A) any touching skin-to-skin, however slight, of an individual's genitals to another individual's genitals; or
 - (B) any penetration, however slight, of an individual's genitals by another individual's genitals, whether over or under the clothing.
 - (iii) "Simulated intercourse" means rubbing or otherwise stimulating or attempting to stimulate an individual's genitals or pubic area by another individual's genitals or pubic area whether over or under the clothing.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits rape of a child if the actor:
 - (a) has sexual intercourse with a child; or
 - (b) intentionally engages in simulated intercourse with a child.
- (3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
 - (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or
 - (b) life without parole, if the trier of fact finds that:
 - (i) during the course of the commission of the rape of a child, the defendant caused serious bodily injury to the victim; or

- (ii) at the time of the commission of the rape of a child the defendant was previously convicted of a grievous sexual offense.
- (4) Subsection (3)(b) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (5)
 - (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:
 - (i) it is a first time offense for the defendant under this section;
 - (ii) the defendant was younger than 21 years old at the time of the offense; and
 - (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
 - (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:
 - (i) 15 years and which may be for life;
 - (ii) 10 years and which may be for life; or
 - (iii) six years and which may be for life.
- (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 97, 2024 General Session

76-5-402.2 Object rape.

- (1)
 - (a) As used in this section, "incapacitated individual" means the same as that term is defined in Section 76-5-402.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits object rape if:
 - (a) the actor:
 - (i) acts without an individual's consent;
 - (ii) causes the penetration, however slight, of the genital or anal opening of the individual by:
 - (A) a foreign object;
 - (B) a substance;
 - (C) an instrument;
 - (D) a device; or
 - (E) a part of the human body other than the mouth or genitals; and
 - (iii)
 - (A) intends to cause substantial emotional or bodily pain to the individual; or
 - (B) intends to arouse or gratify the sexual desire of any individual; and
 - (b) the individual described in Subsection (2)(a)(i) is 14 years old or older.
- (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:
 - (a) except as provided in Subsection (3)(b), (c), or (d), not less than five years and which may be for life;
 - (b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;
 - (c) except as provided in Subsection (3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:

- (i) during the course of the commission of the object rape the defendant caused serious bodily injury to the victim; or
 - (ii) at the time of the commission of the object rape, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or
 - (d) life without parole, if the trier of fact finds that at the time of the commission of the object rape, the defendant was previously convicted of a grievous sexual offense.
- (4)
- (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) 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 six years and which may be for life.
 - (b) If, when imposing a sentence under Subsection (3)(c), a court finds that a lesser term than the term described in Subsection (3)(c) 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:
 - (i) 10 years and which may be for life; or
 - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3) (a) or (d).
- (6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 412, 2025 General Session

76-5-402.3 Object rape of a child -- Penalty.

- (1)
- (a) As used in this section:
 - (i) "Child" means an individual who is younger than 14 years old.
 - (ii) "Masturbatory contact" means the stimulation or attempted stimulation of an individual's genitals or pubic area by another individual.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits object rape of a child if:
- (a)
 - (i) the actor causes the penetration , however slight, whether over or under the clothing, of the genitals or anus of a child by:
 - (A) a foreign object;
 - (B) a substance;
 - (C) an instrument;
 - (D) a device; or
 - (E) a part of the human body other than the mouth or genitals;
 - (ii) the actor causes the touching, however slight, of the skin of the genitals or anus of a child by:
 - (A) a foreign object;
 - (B) a substance;
 - (C) an instrument;
 - (D) a device; or
 - (E) a part of the human body other than the mouth or genitals; or
 - (iii) the actor causes the masturbatory contact over or under the clothing of the genitals or anus of a child by:

- (A) a foreign object;
- (B) a substance;
- (C) an instrument;
- (D) a device; or
- (E) a part of the human body other than the mouth or genitals; and
- (b) the actor:
 - (i) intends to cause substantial emotional or bodily pain to the child; or
 - (ii) intends to arouse or gratify the sexual desire of any individual.
- (3)
 - (a) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
 - (i) except as provided in Subsections (3)(a)(ii) and (4), not less than 25 years and which may be for life; or
 - (ii) life without parole, if the trier of fact finds that:
 - (A) during the course of the commission of the object rape of a child the defendant caused serious bodily injury to the victim; or
 - (B) at the time of the commission of the object rape of a child the defendant was previously convicted of a grievous sexual offense.
 - (b) Subsection (3)(a)(ii) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (4)
 - (a) When imposing a sentence under Subsections (3)(a)(i) and (4)(b), a court may impose a term of imprisonment under Subsection (4)(b) if:
 - (i) it is a first time offense for the defendant under this section;
 - (ii) the defendant was younger than 21 years old at the time of the offense; and
 - (iii) the court finds that a lesser term than the term described in Subsection (3)(a)(i) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
 - (b) If the conditions of Subsection (4)(a) are met, the court may impose a term of imprisonment of not less than:
 - (i) 15 years and which may be for life;
 - (ii) 10 years and which may be for life; or
 - (iii) six years and which may be for life.
- (5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 97, 2024 General Session

76-5-403 Forcible sodomy.

- (1)
 - (a) As used in this section:
 - (i) "Incapacitated individual" means the same as that term is defined in Section 76-5-402.
 - (ii) "Sodomy" means engaging in any sexual act with an individual who is 14 years old or older involving the genitals of one individual and the mouth or anus of another individual.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) An actor commits forcible sodomy when the actor commits sodomy upon another individual without the other individual's consent.
 - (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

- (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:
- (a) except as provided in Subsection (3)(b), (c), or (d), not less than five years and which may be for life;
 - (b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;
 - (c) except as provided in Subsection (3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:
 - (i) during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to the victim; or
 - (ii) at the time of the commission of the forcible sodomy, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or
 - (d) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.
- (4)
- (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) 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 six years and which may be for life.
 - (b) If, when imposing a sentence under Subsection (3)(c), a court finds that a lesser term than the term described in Subsection (3)(c) 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:
 - (i) 10 years and which may be for life; or
 - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply when a defendant is sentenced under Subsection (3)(a) or (d).
- (6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 412, 2025 General Session

76-5-403.1 Sodomy on a child -- Penalties.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits sodomy on a child if:
 - (i) the actor engages in any sexual act upon or with another individual;
 - (ii) the individual is younger than 14 years old; and
 - (iii) the sexual act involves the genitals or anus of the actor or the individual and the mouth or anus of either the actor or individual.
 - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2)(a) is a first degree felony punishable by a term of imprisonment of:
- (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or
 - (b) life without parole, if the trier of fact finds that:
 - (i) during the course of the commission of the sodomy on a child the defendant caused serious bodily injury to the victim; or

- (ii) at the time of the commission of the sodomy on a child, the defendant was previously convicted of a grievous sexual offense.
- (4) Subsection (3)(b) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (5)
 - (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:
 - (i) it is a first time offense for the defendant under this section;
 - (ii) the defendant was younger than 21 years old at the time of the offense; and
 - (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
 - (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:
 - (i) 15 years and which may be for life;
 - (ii) 10 years and which may be for life; or
 - (iii) six years and which may be for life.
- (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 181, 2022 General Session

76-5-404 Forcible sexual abuse -- Penalties -- Limitations.

- (1)
 - (a) As used in this section:
 - (i) "Female breast" means the same as that term is defined in Section 76-5-401.1
 - (ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits forcible sexual abuse if:
 - (i) without the consent of the individual, the actor:
 - (A) touches the anus, buttocks, pubic area, or any part of the genitals of another individual;
 - (B) touches the female breast of another individual; or
 - (C) otherwise takes indecent liberties with another individual;
 - (ii) the actor intends to:
 - (A) cause substantial emotional or bodily pain to any individual; or
 - (B) arouse or gratify the sexual desire of any individual; and
 - (iii) the individual described in Subsection (2)(a)(i)(A), (B), or (C) is 14 years old or older.
 - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
 - (a) A violation of Subsection (2) is a second degree felony, punishable by a term of imprisonment of not less than one year nor more than 15 years.
 - (b)
 - (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (3)(b)(ii), a violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the actor caused serious bodily injury to the victim.

- (ii) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) 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; or
 - (B) six years and which may be for life.
- (4) The offenses referred to in Subsection (2)(a) are:
 - (a) rape, in violation of Section 76-5-402;
 - (b) object rape, in violation of Section 76-5-402.2;
 - (c) forcible sodomy, in violation of Section 76-5-403; or
 - (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).
- (5) Imprisonment under Subsection (3)(b) or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

76-5-404.1 Sexual abuse of a child -- Penalties -- Limitations.

(1)

(a) As used in this section:

- (i) "Adult" means an individual 18 years old or older.
- (ii) "Child" means an individual younger than 14 years old.
- (iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.
- (iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
- (v) "Position of special trust" means:
 - (A) an adoptive parent;
 - (B) an athletic manager who is an adult;
 - (C) an aunt;
 - (D) a babysitter;
 - (E) a coach;
 - (F) a cohabitant of a parent if the cohabitant is an adult;
 - (G) a counselor;
 - (H) a doctor or physician;
 - (I) an employer;
 - (J) a foster parent;
 - (K) a grandparent;
 - (L) a legal guardian;
 - (M) a natural parent;
 - (N) a recreational leader who is an adult;
 - (O) a religious leader;
 - (P) a sibling or a stepsibling who is an adult;
 - (Q) a scout leader who is an adult;
 - (R) a stepparent;
 - (S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;
 - (T) an instructor, professor, or teaching assistant at a public or private institution of higher education;
 - (U) an uncle;
 - (V) a youth leader who is an adult; or

- (W) any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(v)(A) through (V), which enables the individual to exercise undue influence over the child.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:
 - (i)
 - (A) touches, whether over or under the clothing, the buttocks or pubic area of a child;
 - (B) touches, whether over or under the clothing, the female breast of a child;
 - (C) touches the anus or genitals of a child over the clothing; or
 - (D) otherwise takes indecent liberties with a child whether over or under the clothing; and
 - (ii) the actor's conduct is with intent to:
 - (A) cause substantial emotional or bodily pain to any individual; or
 - (B) arouse or gratify the sexual desire of any individual.
 - (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2) is a second degree felony.
- (4) The offenses referred to in Subsection (2)(a) are:
 - (a) rape of a child, in violation of Section 76-5-402.1;
 - (b) object rape of a child, in violation of Section 76-5-402.3;
 - (c) sodomy on a child, in violation of Section 76-5-403.1; or
 - (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

76-5-404.3 Aggravated sexual abuse of a child -- Penalties.

- (1)
 - (a) As used in this section:
 - (i) "Adult" means the same as that term is defined in Section 76-5-404.1.
 - (ii) "Child" means the same as that term is defined in Section 76-5-404.1.
 - (iii) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated sexual abuse of a child if, in conjunction with the offense described in Subsection 76-5-404.1(2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:
 - (a) the actor committed the offense:
 - (i) by the use of a dangerous weapon;
 - (ii) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or
 - (iii) during the course of a kidnapping;
 - (b) the actor caused bodily injury or severe psychological injury to the child during or as a result of the offense;
 - (c) the actor was a stranger to the child or made friends with the child for the purpose of committing the offense;
 - (d) the actor used, showed, or displayed pornography or caused the child to be photographed in a lewd condition during the course of the offense;
 - (e) the actor, prior to sentencing for this offense, was previously convicted of any sexual offense;

- (f) the actor committed the same or similar sexual act upon two or more individuals at the same time or during the same course of conduct;
 - (g) the actor committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;
 - (h) the actor occupied a position of special trust in relation to the child; or
 - (i) the actor encouraged, aided, allowed, or benefited from acts of prostitution or sexual acts by the child with any other individual, sexual performance by the child before any other individual, human trafficking, or human smuggling.
- (3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
- (a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;
 - (b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or
 - (c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.
- (4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) 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) for purposes of Subsection (3)(b), 15 years and which may be for life; or
 - (b) for purposes of Subsection (3)(a) or (b):
 - (i) 10 years and which may be for life; or
 - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3)(c).
- (6) Subsection (3)(b) or (3)(c) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 277, 2025 General Session

76-5-405 Aggravated sexual assault -- Penalty.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated sexual assault if:
- (a) in the course of a rape, object rape, forcible sodomy, or forcible sexual abuse, the actor:
 - (i) uses, or threatens another individual with the use of, a dangerous weapon;
 - (ii) compels, or attempts to compel, another individual to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any individual; or
 - (iii) is aided or abetted by one or more persons;
 - (b) in the course of an attempted rape, attempted object rape, or attempted forcible sodomy, the actor:
 - (i) causes serious bodily injury to any individual;
 - (ii) uses, or threatens the individual with the use of a dangerous weapon;

- (iii) attempts to compel the individual to submit to rape, object rape, or forcible sodomy, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any individual; or
 - (iv) is aided or abetted by one or more persons; or
- (c) in the course of an attempted forcible sexual abuse, the actor:
 - (i) causes serious bodily injury to any individual;
 - (ii) uses, or threatens the individual with the use of a dangerous weapon;
 - (iii) attempts to compel the individual to submit to forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any individual; or
 - (iv) is aided or abetted by one or more persons.
- (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:
 - (a) for an aggravated sexual assault described in Subsection (2)(a):
 - (i) except as provided in Subsection (3)(a)(ii) or (4)(a), not less than 15 years and which may be for life; or
 - (ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense;
 - (b) for an aggravated sexual assault described in Subsection (2)(b):
 - (i) except as provided in Subsection (3)(b)(ii) or (5)(a), not less than 10 years and which may be for life; or
 - (ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense; or
 - (c) for an aggravated sexual assault described in Subsection (2)(c):
 - (i) except as provided in Subsection (3)(c)(ii) or (6)(a), not less than six years and which may be for life; or
 - (ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense.
- (4)
 - (a) If, when imposing a sentence under Subsection (3)(a)(i), a court finds that a lesser term than the term described in Subsection (3)(a)(i) 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:
 - (i) 10 years and which may be for life; or
 - (ii) six years and which may be for life.
 - (b) The provisions of Subsection (4)(a) do not apply when a defendant is sentenced under Subsection (3)(a)(ii).
- (5)
 - (a) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) 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 six years and which may be for life.
 - (b) The provisions of Subsection (5)(a) do not apply when a defendant is sentenced under Subsection (3)(b)(ii).
- (6)
 - (a) If, when imposing a sentence under Subsection (3)(c)(i), a court finds that a lesser term than the term described in Subsection (3)(c)(i) 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 three years and which may be for life.

- (b) The provisions of Subsection (6)(a) do not apply when a defendant is sentenced under Subsection (3)(c)(ii).
- (7) Subsections (3)(a)(ii), (3)(b)(ii), and (3)(c)(ii) do not apply if the defendant was younger than 18 years old at the time of the offense.
- (8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 181, 2022 General Session

76-5-406 Sexual offenses against the victim without consent of victim -- Circumstances.

(1) As used in this section:

- (a) "Health professional" means an individual who is licensed or who holds the individual out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling, including an athletic trainer, physician, osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor.
- (b) "Religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.
- (c) "To retaliate" includes threats of physical force, kidnapping, or extortion.

(2) An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- (a) the victim expresses lack of consent through words or conduct;
- (b) the actor overcomes the victim through the actual application of physical force or violence;
- (c) the actor is able to overcome the victim through concealment or by the element of surprise;
- (d)
 - (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or
 - (ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;
- (e) the actor knows the victim is unconscious, unaware that the act is occurring, or is physically unable to resist;
- (f) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:
 - (i) appraise the nature of the act;
 - (ii) resist the act;
 - (iii) understand the possible consequences to the victim's health or safety; or
 - (iv) appraise the nature of the relationship between the actor and the victim;

- (g) the actor knows that the victim participates because the victim erroneously believes that the actor is someone else;
 - (h) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;
 - (i) the victim is younger than 14 years of age;
 - (j) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;
 - (k) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2)(b) or (d); or
 - (l) the actor is a health professional or religious counselor, the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested.
- (3) Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent may be initially given but may be withdrawn through words or conduct at any time prior to or during sexual activity.

Amended by Chapter 92, 2020 General Session

76-5-406.3 Applicability of sentencing provisions.

A person convicted of a violation of Section 76-5-301.1, child kidnaping; Section 76-5-302, aggravated kidnaping; Section 76-5-402.1, rape of a child; Section 76-5-402.3, object rape of a child; Section 76-5-403.1, sodomy on a child; Section 76-5-404.3, aggravated sexual abuse of a child; or Section 76-5-405, aggravated sexual assault shall be sentenced as follows:

- (1) If the person is sentenced prior to April 29, 1996, he shall be sentenced in accordance with the statutory provisions in effect prior to that date.
- (2) If the person commits the crime and is sentenced on or after April 29, 1996, he shall be punished in accordance with the statutory provisions in effect after April 29, 1996.
- (3) If the person commits the crime prior to April 29, 1996, but is sentenced on or after April 29, 1996, he shall be given the option prior to sentencing to proceed either under the law which was in effect at the time the offense was committed or the law which was in effect at the time of sentencing. If the person refuses to select, the court shall sentence the person in accordance with the law in effect at the time of sentencing. The provisions of Subsections 77-27-9(2)(a) and (b) apply to the sentence of any person who selects under this section to be sentenced in accordance with the law in effect prior to April 29, 1996.

Amended by Chapter 181, 2022 General Session

76-5-406.5 Circumstances required for probation or suspension of sentence for certain sex offenses against a child.

- (1) In a case involving a conviction for an attempted violation of Section 76-5-402.1, rape of a child, Section 76-5-402.3, object rape of a child, Section 76-5-403.1, sodomy on a child, or Section 76-5-404.3, aggravated sexual abuse of a child, the court may suspend the execution of the sentence and consider probation to a residential sexual abuse treatment center only if all of

the following circumstances are found by the court to be present and the court in the court's discretion, considering the circumstances of the offense, including the nature, frequency, and duration of the conduct, and considering the best interests of the public and the child victim, finds probation to a residential sexual abuse treatment center to be proper:

- (a) the defendant did not use a weapon, force, violence, substantial duress or menace, or threat of harm, in committing the offense or before or after committing the offense, in an attempt to frighten the child victim or keep the child victim from reporting the offense;
- (b) the defendant did not cause bodily injury to the child victim during or as a result of the offense and did not cause the child victim severe psychological harm;
- (c) the defendant, prior to the offense, had not been convicted of any public offense in Utah or elsewhere involving sexual misconduct in the commission of the offense;
- (d) the defendant did not commit an offense described in this Part 4, Sexual Offenses, against more than one child victim or victim, at the same time, or during the same course of conduct, or previous to or subsequent to the instant offense;
- (e) the defendant did not use, show, or display pornography or create sexually-related photographs or tape recordings in the course of the offense;
- (f) the defendant did not act in concert with another offender during the offense or knowingly commit the offense in the presence of a person other than the victim or with lewd intent to reveal the offense to another;
- (g) the defendant did not encourage, aid, allow, or benefit from any act of prostitution or sexual act by the child victim with any other person or sexual performance by the child victim before any other person;
- (h) the defendant admits the offense of which he has been convicted and has been accepted for mental health treatment in a residential sexual abuse treatment center that has been approved by the Department of Corrections under Subsection (3);
- (i) rehabilitation of the defendant through treatment is probable, based upon evidence provided by a treatment professional who has been approved by the Department of Corrections under Subsection (3) and who has accepted the defendant for treatment;
- (j) prior to being sentenced, the defendant has undergone a complete psychological evaluation conducted by a professional approved by the Department of Corrections and:
 - (i) the professional's opinion is that the defendant is not an exclusive pedophile and does not present an immediate and present danger to the community if released on probation and placed in a residential sexual abuse treatment center; and
 - (ii) the court accepts the opinion of the professional;
- (k) if the offense is committed by a parent, stepparent, adoptive parent, or legal guardian of the child victim, the defendant shall, in addition to establishing all other conditions of this section, establish it is in the child victim's best interest that the defendant not be imprisoned, by presenting evidence provided by a treatment professional who:
 - (i) is treating the child victim and understands he will be treating the family as a whole; or
 - (ii) has assessed the child victim for purposes of treatment as ordered by the court based on a showing of good cause; and
- (l) if probation is imposed, the defendant, as a condition of probation, may not reside in a home where children younger than 18 years old reside for at least one year beginning with the commencement of treatment, and may not again take up residency in a home where children younger than 18 years old reside during the period of probation until allowed to do so by order of the court.

- (2) A term of incarceration of at least 90 days is to be served prior to treatment and continue until the time when bed space is available at a residential sexual abuse treatment center as provided under Subsection (3) and probation is to be imposed for up to a maximum of 10 years.
- (3)
- (a) The Department of Corrections shall develop qualification criteria for the approval of the sexual abuse treatment programs and professionals under this section. The criteria shall include the screening criteria employed by the department for sexual offenders.
 - (b) The sexual abuse treatment program shall be at least one year in duration, shall be residential, and shall specifically address the sexual conduct for which the defendant was convicted.
- (4) Establishment by the defendant of all the criteria of this section does not mandate the granting under this section of probation or modification of the sentence that would otherwise be imposed by Section 76-3-406 regarding sexual offenses against children. The court has discretion to deny the request based upon its consideration of the circumstances of the offense, including:
- (a) the nature, frequency, and duration of the conduct;
 - (b) the effects of the conduct on any child victim involved;
 - (c) the best interest of the public and any child victim; and
 - (d) the characteristics of the defendant, including any risk the defendant presents to the public and specifically to children.
- (5) The defendant has the burden to establish by a preponderance of evidence eligibility under all of the criteria of this section.
- (6) If the court finds a defendant granted probation under this section fails to cooperate or succeed in treatment or violates probation to any substantial degree, the sentence previously imposed for the offense shall be immediately executed.
- (7) The court shall enter written findings of fact regarding the conditions established by the defendant that justify the granting of probation under this section.
- (8) In cases involving conviction of any sexual offense against a child other than those offenses provided in Subsection (1), the court shall consider the circumstances described in Subsection (1) as advisory in determining whether or not execution of sentence should be suspended and probation granted. The defendant is not required to satisfy all of those circumstances for eligibility pursuant to this Subsection (8).

Amended by Chapter 193, 2025 General Session

76-5-407 Consensual conduct in marriage.

The provisions of this part do not apply to consensual conduct between individuals married to each other.

Amended by Chapter 181, 2022 General Session

76-5-409 Corroboration of admission by child's statement.

- (1) Notwithstanding any provision of law requiring corroboration of admissions or confessions, and notwithstanding any prohibition of hearsay evidence, a child's statement indicating in any manner the occurrence of the sexual offense involving the child is sufficient corroboration of the admission or the confession regardless of whether or not the child is available to testify regarding the offense.
- (2) A child, for purposes of Subsection (1), is a person under the age of 14.

Enacted by Chapter 88, 1983 General Session

76-5-410 Child victim of sexual abuse as competent witness.

A child victim of sexual abuse under the age of 10 is a competent witness and shall be allowed to testify without prior qualification in any judicial proceeding. The trier of fact shall determine the weight and credibility of the testimony.

Amended by Chapter 74, 1985 General Session

76-5-412 Custodial sexual relations -- Penalties -- Defenses and limitations.

- (1)
- (a) As used in this section:
 - (i) "Actor" means:
 - (A) a law enforcement officer, as defined in Section 53-13-103;
 - (B) a correctional officer, as defined in Section 53-13-104;
 - (C) a special function officer, as defined in Section 53-13-105; or
 - (D) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.
 - (ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (iii) "Person in custody" means an individual, either an adult 18 years old or older, or a minor younger than 18 years old, who is:
 - (A) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 26B-5-302 or other medical facility;
 - (B) under correctional supervision, such as at a work release facility or as a parolee or probationer; or
 - (C) under lawful or unlawful arrest, either with or without a warrant.
 - (iv) "Private provider or contractor" means a person that contracts or enters into a memorandum of understanding with a governmental or private entity to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (2)(b):
 - (i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (4); and
 - (ii)
 - (A) the actor knows that the individual is a person in custody; or
 - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.
 - (b) Acts referred to in Subsection (2)(a) are:
 - (i) having sexual intercourse with a person in custody;
 - (ii) engaging in a sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual; or
 - (iii)

- (A) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body; and
 - (B) intending to cause substantial emotional or bodily pain to any individual.
 - (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
- (a) A violation of Subsection (2) is a third degree felony.
 - (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a second degree felony.
 - (c) If the act committed under Subsection (3) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The offenses referred to in Subsection (2)(a)(i) and Subsection 76-5-412.2(2)(a)(i) are:
- (a) Section 76-5-401, unlawful sexual activity with a minor;
 - (b) Section 76-5-402, rape;
 - (c) Section 76-5-402.1, rape of a child;
 - (d) Section 76-5-402.2, object rape;
 - (e) Section 76-5-402.3, object rape of a child;
 - (f) Section 76-5-403, forcible sodomy;
 - (g) Section 76-5-403.1, sodomy on a child;
 - (h) Section 76-5-404, forcible sexual abuse;
 - (i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child; or
 - (j) Section 76-5-405, aggravated sexual assault.
- (5)
- (a) It is not a defense to the commission of, or the attempt to commit, the offense of custodial sexual relations under Subsection (2) if the person in custody is younger than 18 years old, that the actor:
 - (i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or
 - (ii) was unaware of the true age of the person in custody.
 - (b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).
- (6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 322, 2023 General Session

Amended by Chapter 330, 2023 General Session

76-5-412.2 Custodial sexual misconduct -- Penalties -- Defenses.

- (1)
- (a) As used in this section:
 - (i) "Actor" means the same as that term is defined in Section 76-5-412.
 - (ii) "Female breast" means the same as that term is defined in Section 76-5-401.1.
 - (iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (iv) "Person in custody" means the same as that term is defined in Section 76-5-412.
 - (v) "Private provider or contractor" means the same as that term is defined in Section 76-5-412.

- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) An actor commits custodial sexual misconduct if:
 - (i) the actor commits any of the acts under Subsection (2)(b) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection 76-5-412(4); and
 - (ii)
 - (A) the actor knows that the individual is a person in custody; or
 - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.
 - (b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to another individual or with the intent to arouse or gratify the sexual desire of any individual:
 - (i) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;
 - (ii) touching the female breast of a person in custody; or
 - (iii) otherwise taking indecent liberties with a person in custody.
- (3)
 - (a) A violation of Subsection (2) is a class A misdemeanor.
 - (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a third degree felony.
 - (c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4)
 - (a) It is not a defense to the commission of, or attempt to commit, the offense described in Subsection (2) if the person in custody is younger than 18 years old, that the actor:
 - (i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or
 - (ii) was unaware of the true age of the person in custody.
 - (b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).
- (5) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

76-5-412.4 Custodial solicitation of sexually explicit conduct from a person in custody.

- (1)
 - (a) As used in this section:
 - (i) "Actor" means the same as that term is defined in Section 76-5-412.
 - (ii) "Person in custody" means an individual who is:
 - (A) 18 years old or older; and
 - (B) otherwise meets the definition of a person in custody as that term is defined in Section 76-5-412.
 - (iii) "Sexually explicit conduct" means actual or simulated:
 - (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

- (B) masturbation;
 - (C) bestiality;
 - (D) sadistic or masochistic activities;
 - (E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;
 - (F) visual depiction of nudity or partial nudity;
 - (G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or
 - (H) the visual depiction of defecation or urination for the purpose of causing sexual arousal of any individual.
- (iv) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits custodial solicitation of sexually explicit conduct from a person in custody if:
- (a) the actor knowingly requests, demands, or otherwise solicits from a person in custody:
 - (i) a photograph, image, live video, or a recording of the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; or
 - (ii) a live demonstration or performance by the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; and
 - (b)
 - (i) the actor knows that the individual described in Subsection (2)(a) is a person in custody; or
 - (ii) a reasonable person in the actor's position should have known under the circumstances that the individual described in Subsection (2)(a) was a person in custody.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.
- (5) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).
- (6) This section does not apply to an actor who is acting within the course and scope of the actor's legitimate duties, including documenting photographic evidence.

Enacted by Chapter 253, 2025 General Session

**76-5-413 Custodial sexual relations with youth receiving state services -- Penalties --
Defenses and limitations.**

- (1)
- (a) As used in this section:
 - (i) "Actor" means:
 - (A) an individual employed by the Department of Health and Human Services created in Section 26B-1-201, or an employee of a private provider or contractor; or
 - (B) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.
 - (ii) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
 - (iii) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.
 - (iv) "Private provider or contractor" means a person that contracts with the:
 - (A) department to provide services or functions that are part of the operation of the department; or

- (B) juvenile court to provide services or functions that are part of the operation of the juvenile court.
 - (v) "Youth receiving state services" means an individual:
 - (A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who is:
 - (I) in the custody of the department under Section 80-6-703; or
 - (II) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or
 - (B) younger than 25 years old:
 - (I) who is in the custody of the Division of Juvenile Justice and Youth Services, or the Division of Child and Family Services; or
 - (II) whose case is under the jurisdiction of the juvenile court.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual relations with a youth receiving state services if:
 - (i) the actor commits any of the acts described in Subsection (2)(b); and
 - (ii)
 - (A) the actor knows that the individual is a youth receiving state services; or
 - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.
 - (b) Acts referred to in Subsection (2)(a)(i) are:
 - (i) having sexual intercourse with a youth receiving state services;
 - (ii) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual; or
 - (iii)
 - (A) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body; and
 - (B) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.
 - (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
- (a) A violation of Subsection (2) is a third degree felony.
 - (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a second degree felony.
 - (c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The offenses referred to in Subsection (2) are:
- (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
 - (b) rape, in violation of Section 76-5-402;
 - (c) rape of a child, in violation of Section 76-5-402.1;
 - (d) object rape, in violation of Section 76-5-402.2;
 - (e) object rape of a child, in violation of Section 76-5-402.3;
 - (f) forcible sodomy, in violation of Section 76-5-403;
 - (g) sodomy on a child, in violation of Section 76-5-403.1;
 - (h) forcible sexual abuse, in violation of Section 76-5-404;

- (i) sexual abuse of a child, in violation of Section 76-5-404.1;
 - (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
 - (k) aggravated sexual assault, in violation of Section 76-5-405; or
 - (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
- (5)
- (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:
 - (i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or
 - (ii) was unaware of the true age of the youth receiving state services.
 - (b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).
- (6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 88, 2025 General Session

76-5-413.2 Custodial sexual misconduct with a youth receiving state services -- Penalties -- Defenses and limitations.

- (1)
- (a) As used in this section:
 - (i) "Actor" means the same as that term is defined in Section 76-5-413.
 - (ii) "Department" means the same as that term is defined in Section 76-5-413.
 - (iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.
 - (iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (v) "Juvenile court" means the same as that term is defined in Section 76-5-413.
 - (vi) "Private provider or contractor" means the same as that term is defined in Section 76-5-413.
 - (vii) "Youth receiving state services" means the same as that term is defined in Section 76-5-413.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual misconduct with a youth receiving state services if:
 - (i) the actor commits any of the acts described in Subsection (2)(b); and
 - (ii)
 - (A) the actor knows that the individual is a youth receiving state services; or
 - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.
 - (b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:
 - (i) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;
 - (ii) touching the female breast of a youth receiving state services; or
 - (iii) otherwise taking indecent liberties with a youth receiving state services.
 - (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

- (3)
 - (a) A violation of Subsection (2) is a class A misdemeanor.
 - (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a third degree felony.
 - (c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The offenses referred to in Subsection (2) are:
 - (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
 - (b) rape, in violation of Section 76-5-402;
 - (c) rape of a child, in violation of Section 76-5-402.1;
 - (d) object rape, in violation of Section 76-5-402.2;
 - (e) object rape of a child, in violation of Section 76-5-402.3;
 - (f) forcible sodomy, in violation of Section 76-5-403;
 - (g) sodomy on a child, in violation of Section 76-5-403.1;
 - (h) forcible sexual abuse, in violation of Section 76-5-404;
 - (i) sexual abuse of a child, in violation of Section 76-5-404.1;
 - (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
 - (k) aggravated sexual assault, in violation of Section 76-5-405; or
 - (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
- (5)
 - (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:
 - (i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or
 - (ii) was unaware of the true age of the youth receiving state services.
 - (b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).
- (6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

76-5-415 Educator's license subject to action for violation of this part.

Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, by an educator as defined in Section 53E-6-102, is grounds under Section 53E-6-604 for disciplinary action against the educator, including revocation of the educator's license.

Amended by Chapter 173, 2025 General Session

76-5-416.2 Unlawful kissing of a child.

- (1)
 - (a) As used in this section, "child" means an individual who is under 14 years old.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful kissing of a child if the actor:

- (a) is 18 years old or older; and
- (b) intentionally or knowingly:
 - (i) kisses a child on the child's mouth; and
 - (ii) penetrates the minor's mouth with the actor's tongue.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) Any penetration, however slight, of the mouth of the child by the actor's tongue is sufficient to constitute a violation of this section.

Enacted by Chapter 140, 2024 General Session

76-5-416.4 Unlawful kissing of a minor.

- (1)
 - (a) As used in this section, "minor" means an individual who is 14 years old or older but younger than 18 years old.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful kissing of a minor if the actor:
 - (a) intentionally or knowingly:
 - (i) kisses a minor on the minor's mouth; and
 - (ii) penetrates the minor's mouth with the actor's tongue; and
 - (b) is older than the minor by 10 years or more.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) Any penetration, however slight, of the mouth of the minor by the actor's tongue is sufficient to constitute a violation of this section.

Enacted by Chapter 140, 2024 General Session

76-5-417 Enticing a minor to engage in sexual activity.

- (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 76-12-201.
 - (iii) "Electronic communication device" means the same as that term is defined in Section 76-12-201.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits enticing a minor to engage in sexual activity 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 who the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law;
 - (ii) communicate with any individual with the intent to solicit, seduce, lure, or entice a minor, or attempt to solicit, seduce, lure, or entice a minor, to engage in sexual activity that is a violation of state criminal law; or
 - (iii)
 - (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)(iii)(A), by any electronic or written means, solicits, seduces, lures, or entices the minor, 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 a minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice the minor, or attempt to solicit, seduce, lure, or entice the minor, to engage in sexual activity that is a violation of state criminal law.
- (3) A violation of 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 (3)(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 (3)(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.
- (4) It is not a defense to a violation, or attempted violation, of Subsection (2) 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.
- (5)
 - (a) When an actor who commits a felony violation of this section has previously been convicted of an offense described in 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) child kidnapping as described in Section 76-5-301.1;
 - (ii) human trafficking of a child as described in Section 76-5-308.5;
 - (iii) rape as described in Section 76-5-402;
 - (iv) rape of a child as described in Section 76-5-402.1;
 - (v) object rape as described in Section 76-5-402.2;
 - (vi) object rape of a child as described in Section 76-5-402.3;
 - (vii) forcible sodomy as described in Section 76-5-403;
 - (viii) sodomy on a child as described in Section 76-5-403.1;
 - (ix) forcible sexual abuse as described in Section 76-5-404;
 - (x) sexual abuse of a child as described in Section 76-5-404.1;
 - (xi) aggravated sexual abuse of a child as described in Section 76-5-404.3;
 - (xii) aggravated sexual assault as described in Section 76-5-405;
 - (xiii) enticing a minor to engage in sexual activity as described in Section 76-5-417;
 - (xiv) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through (xiii); or
 - (xv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xiv).

76-5-418 Sexual battery.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits sexual battery if, under circumstances not amounting to an offense described in Subsection (4), the actor:
 - (a) intentionally touches, whether or not through clothing:
 - (i) the anus, buttocks, or any part of the genitals of another individual;
 - (ii) or the breast of a female individual; and
 - (iii) the actor's conduct is under circumstances that the actor knows or should know will likely cause affront or alarm to the individual touched.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2) are:
 - (a) rape under Section 76-5-402;
 - (b) rape of a child under Section 76-5-402.1;
 - (c) object rape under Section 76-5-402.2;
 - (d) object rape of a child under Section 76-5-402.3;
 - (e) forcible sodomy under Subsection 76-5-403(2);
 - (f) sodomy on a child under Section 76-5-403.1;
 - (g) forcible sexual abuse under Section 76-5-404;
 - (h) sexual abuse of a child under Section 76-5-404.1;
 - (i) aggravated sexual abuse of a child under Section 76-5-404.3;
 - (j) aggravated sexual assault under Section 76-5-405; and
 - (k) an attempt to commit an offense under this Subsection (2).

Renumbered and Amended by Chapter 173, 2025 General Session

76-5-419 Lewdness.

- (1)
 - (a) As used in this section:
 - (i) "Common area of a privacy space" means any area of a privacy space other than:
 - (A) a toilet stall with a closed door;
 - (B) immediately in front of a urinal during use; or
 - (C) a shower stall with a closed door or other closed covering.
 - (ii) "Privacy space" means the same as that term is defined in Section 76-12-309.
 - (iii) "Sex-designated" means the same as that term is defined in Section 76-12-309.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits lewdness if:
 - (a) the actor performs:
 - (i) an act of sexual intercourse or sodomy;
 - (ii) an act exposing the actor's:
 - (A) genitals;
 - (B) female breast below the top of the areola if the actor is female;
 - (C) buttocks, anus, or pubic area;
 - (iii) masturbates; or
 - (iv) any other act of lewdness; and
 - (b) an action described in Subsection (2)(a) is undertaken:
 - (i) in a public place; or

- (ii) under circumstances which the actor should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older.
- (3)
 - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
 - (b) A violation of Subsection (2) is a third degree felony if at the time of the violation:
 - (i) the actor is a sex offender as defined in Section 57-8a-102;
 - (ii) the actor has previously been convicted two or more times of a violation of Subsection (2);
 - (iii) the actor has previously been convicted of:
 - (A) a violation of Subsection (2); and
 - (B) a violation of Section 76-5-420;
 - (iv) the actor also commits the offense of:
 - (A) criminal trespass resulting from unlawfully entering a sex-designated changing room as described in Subsection 76-6-206(2)(d);
 - (B) lewdness involving a child as described in Section 76-5-420;
 - (C) voyeurism as described in Section 76-12-306;
 - (D) recorded or photographed voyeurism as described in Section 76-12-307;
 - (E) distribution of images obtained through voyeurism as described in Section 76-12-308; or
 - (F) loitering in a privacy space as described in Section 76-12-309; or
 - (v) the actor is in a sex-designated privacy space, that is not designated for individuals of the actor's sex.
- (4) The offenses referred to in Subsection (2) are:
 - (a) unlawful sexual conduct with a 16 or 17 year old as described in Section 76-5-401.2;
 - (b) rape as described in Section 76-5-402;
 - (c) object rape as described in Section 76-5-402.2;
 - (d) forcible sodomy as described in Section 76-5-403;
 - (e) forcible sexual abuse as described in Section 76-5-404;
 - (f) sexual abuse of a child as described in Section 76-5-404.1;
 - (g) aggravated sexual assault as described in Section 76-5-405;
 - (h) custodial sexual relations as described in Section 76-5-412;
 - (i) custodial sexual misconduct as described in Section 76-5-412.2;
 - (j) custodial sexual relations with youth receiving state services as described in Section 76-5-413;
 - (k) custodial sexual misconduct with youth receiving state services as described in Section 76-5-413.2; or
 - (l) an attempt to commit an offense described in Subsection (4)(a) through (k).
- (5)
 - (a) As described in Subsection 53-29-202(4), for purposes of Subsection (3), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
 - (b) Subsection (5)(a) also applies if the charge under Subsection (3) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (6)
 - (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes lewdness.
 - (b) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with

the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness.

- (7) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Renumbered and Amended by Chapter 173, 2025 General Session

76-5-420 Lewdness involving a child.

- (1)
- (a) As used in this section:
 - (i) "Child" means an individual younger than 14 years old.
 - (ii) "Common area of a privacy space" means the same as that term is defined in Section 76-5-419.
 - (iii) "In the presence of" includes within visual contact through an electronic device.
 - (iv) "Privacy space" means the same as that term is defined in Section 76-12-309.
 - (v) "Sex-designated" means the same as that term is defined in Section 76-12-309.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits lewdness involving a child if:
- (a) the actor, under circumstances not amounting to an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child:
 - (i) performs an act of sexual intercourse or sodomy;
 - (ii) exposes the actor's genitals, female breast below the top of the areola, buttocks, anus, or pubic area:
 - (A) in a public place; or
 - (B) in a private place under circumstances the actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child; or
 - (iii) masturbates;
 - (b) the actor is 18 years old or older and, under circumstances not amounting to an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child:
 - (i) simulates masturbation;
 - (ii) performs an act of simulated intercourse or sodomy;
 - (iii) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered;
 - (iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex or how the breast was developed or created; or
 - (v) involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of:
 - (A) simulated intercourse or sodomy; or
 - (B) simulated masturbation;
 - (c) the actor, under circumstances not amounting to sexual exploitation of a minor under Section 76-5b-201 or aggravated sexual exploitation of a minor under Section 76-5b-201.1, intentionally or knowingly causes a child to expose the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or
 - (d) the actor performs any other act of lewdness.

- (3)
 - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
 - (b) A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:
 - (i) is a sex offender as described in Subsection 53-29-202(2)(b) and the offense that the actor committed that resulted in the actor being a sex offender was committed against an individual younger than 18 years old;
 - (ii) previously has been convicted of a violation of this section;
 - (iii) commits the violation of Subsection (2) while also committing the offense of:
 - (A) lewdness as described in Section 76-5-419;
 - (B) criminal trespass resulting from unlawfully entering a sex-designated changing room as described in Subsection 76-6-206(2)(d);
 - (C) voyeurism as described in Section 76-12-306;
 - (D) recorded or photographed voyeurism as described in Section 76-12-307;
 - (E) distribution of images obtained through voyeurism as described in Section 76-12-308; or
 - (F) loitering in a privacy space as described in Section 76-12-309; or
 - (iv) is in a sex-designated privacy space, that is not designated for individuals of the actor's sex.
- (4) The offenses referred to in Subsection (2) are:
 - (a) rape of a child as described in Section 76-5-402.1;
 - (b) object rape of a child as described in Section 76-5-402.3;
 - (c) sodomy on a child as described in Section 76-5-403.1;
 - (d) sexual abuse of a child as described in Section 76-5-404.1;
 - (e) aggravated sexual abuse of a child as described in Section 76-5-404.3; or
 - (f) an attempt to commit an offense described in Subsections (4)(a) through (e).
- (5)
 - (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes a violation of Subsection (2).
 - (b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.

Renumbered and Amended by Chapter 173, 2025 General Session

76-5-421 Indecent exposure of another individual.

- (1)
 - (a) As used in this section:
 - (i) "First responder" means the same as that term is defined in Section 34A-2-102.
 - (ii) "Health care professional" means the same as that term is defined in Section 53-3-207.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits indecent exposure of another individual if the actor exposes in a public place, without the individual's consent, the individual's:
 - (a) undergarments intended to cover the individual's genitals, breasts if the individual is female, buttocks, anus, or pubic area; or
 - (b) genitals, breast below the top of the areola if the individual is female, buttocks, anus, or pubic area.

- (3)
 - (a) A violation of Subsection (2)(a) is a class C misdemeanor.
 - (b) Except as provided in Subsection (3)(c), a violation of Subsection (2)(b) is a class B misdemeanor.
 - (c) A violation of Subsection (2)(b) is a class A misdemeanor if the actor committed the violation in the presence of an individual who is younger than 14 years old.
- (4) An actor under the age of 18 years old may not be referred to the juvenile court or prosecuting attorney under this section unless the actor has previously received a written warning from a law enforcement officer for conduct described in Subsection (2).
- (5) This section does not apply to a first responder or health care professional who removes the clothing of another individual during an emergency to provide medical care to that individual resulting in the exposure of that individual described in Subsection (2).

Enacted by Chapter 204, 2025 General Session

76-5-422 Sexual relations with an adult high school student.

- (1)
 - (a) As used in this section:
 - (i) "Actor" means an individual who is 21 years old or older.
 - (ii) "Adult high school student" means an individual who is 18 to 21 years old and enrolled at a high school.
 - (iii) "High school" means a district, charter, or private school that is comprised of grade 9, 10, 11, or 12.
 - (iv) "Position of special trust" means the following positions in a high school:
 - (A) a teacher;
 - (B) an administrator;
 - (C) a coach;
 - (D) a counselor; or
 - (E) an individual other than an individual listed in Subsections (1)(a)(iv)(A) through (1)(a)(iv)(D) who occupies a position of authority that enables the individual to exercise undue influence over an adult high school student.
 - (v) "Sexual intercourse" means any penetration, however slight, of:
 - (A) the genitals or anus of an individual by another individual using any body part, object, or substance; or
 - (B) the mouth of an individual by another individual's genitals.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits sexual relations with an adult high school student if the actor:
 - (a)
 - (i) has sexual intercourse with an adult high school student; or
 - (ii) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:
 - (A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult high school student;
 - (B) touches the breast of a female adult high school student; or
 - (C) otherwise takes indecent liberties with an adult high school student;
 - (b) occupies a position of special trust in relation to the adult high school student described in Subsection (2)(a); and

- (c) knows or should have known that the individual with which the actor committed the acts described in Subsection (2)(a) was an adult high school student.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).
- (5) Consent of an adult high school student to an act described in Subsection (2) is not a defense to prosecution under this section.

Enacted by Chapter 204, 2025 General Session

76-5-423 Unlawful sexual activity with a child using virtual reality.

- (1)
 - (a) As used in this section:
 - (i) "Avatar" means a three-dimensional character that represents a human user in a virtual reality environment.
 - (ii) "Child" means an individual who is younger than 14 years old.
 - (iii) "Haptic technology" means technology that can create an experience of touch by applying force, vibration, or motion to the human user.
 - (iv) "Virtual reality" means a three-dimensional environment in which the human user is fully immersed in a computer-generated simulation through the use of an avatar, regardless of whether the human user is using haptic technology.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful sexual activity with a child using virtual reality if the actor:
 - (a) is 18 years old or older;
 - (b) knows that the human user of an avatar is a child; and
 - (c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the child's avatar involving:
 - (i) the genitals, pubic area, or anus of the actor's avatar or the child's avatar; and
 - (ii) the mouth, buttocks, pubic area, genitals, or anus of either the actor's avatar or the child's avatar.
- (3)
 - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
 - (b) A violation of Subsection (2) is a class A misdemeanor if the actor is less than 10 years older than the child.
- (4) Consent of the child to engage in the sexual activity is not a defense to a violation of Subsection (2).

Enacted by Chapter 253, 2025 General Session

76-5-424 Unlawful sexual activity with a minor using virtual reality.

- (1)
 - (a) As used in this section:
 - (i) "Avatar" means the same as that term is defined in Section 76-5-423.
 - (ii) "Haptic technology" means the same as that term is defined in Section 76-5-423.
 - (iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.
 - (iv) "Virtual reality" means the same as that term is defined in Section 76-5-423.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.

- (2) An actor commits unlawful sexual activity with a minor using virtual reality if the actor:
 - (a) knows that the human user of an avatar is a minor;
 - (b) is older than the minor by 10 years or more; and
 - (c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the minor's avatar involving:
 - (i) the genitals, pubic area, or anus of the actor's avatar or the minor's avatar; and
 - (ii) the mouth, buttocks, pubic area, genitals, or anus of either the actor's avatar or the minor's avatar.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) Consent of the minor to engage in the sexual activity is not a defense to a violation of Subsection (2).

Enacted by Chapter 253, 2025 General Session