

Effective 5/13/2014

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

- (1) As used in this section, "minor" means a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in Subsection (2) occurred.
- (2)
 - (a) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to an offense listed under Subsection (3), a person who is:
 - (i) seven or more years older but less than 10 years older than the minor at the time of the sexual conduct engages in any conduct listed in Subsection (2)(b), and the person knew or reasonably should have known the age of the minor;
 - (ii) 10 or more years older than the minor at the time of the sexual conduct and engages in any conduct listed in Subsection (2)(b); or
 - (iii) holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(c)(xix).
 - (b) As used in Subsection (2)(a), "sexual conduct" refers to when the person:
 - (i) has sexual intercourse with the minor;
 - (ii) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant;
 - (iii) 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, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant; or
 - (iv) touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.
- (3) The offenses referred to in Subsection (2) are:
 - (a)
 - (i) rape, in violation of Section 76-5-402;
 - (ii) object rape, in violation of Section 76-5-402.2;
 - (iii) forcible sodomy, in violation of Section 76-5-403;
 - (iv) forcible sexual abuse, in violation of Section 76-5-404; or
 - (v) aggravated sexual assault, in violation of Section 76-5-405; or
 - (b) an attempt to commit any offense under Subsection (3)(a).
- (4) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.
- (5)
 - (a) A violation of Subsection (2)(b)(iv) is a class A misdemeanor, except under Subsection (5)(b).
 - (b) A violation of Subsection (2)(b)(iv) is a third degree felony if the actor at the time of the commission of the offense:
 - (i) is 18 years of age or older;
 - (ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and
 - (iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Amended by Chapter 135, 2014 General Session