

Effective 5/7/2025

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