

76-5-402 Rape.

- (1) A person commits rape when the actor has sexual intercourse with another person without the victim's consent.
- (2) This section applies whether or not the actor is married to the victim.
- (3) Rape is a felony of the first degree, punishable by a term of imprisonment of:
 - (a) except as provided in Subsection (3)(b) or (c), not less than five years and which may be for life;
 - (b) except as provided in Subsection (3)(c) or (4), 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 another; or
 - (ii) at the time of the commission of the rape, the defendant was younger than 18 years of age and was previously convicted of a grievous sexual offense; or
 - (c) 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) 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:
 - (a) 10 years and which may be for life; or
 - (b) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(a) or (c).
- (6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 81, 2013 General Session